

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

## NOTICE OF EXEMPT RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

## CHAPTER 2. CORPORATION COMMISSION FIXED UTILITIES

**PREAMBLE**

### **1. Sections Affected**

R14-2-203  
R14-2-204  
R14-2-208  
R14-2-209  
R14-2-210  
R14-2-211  
R14-2-1601  
R14-2-1603  
R14-2-1604  
R14-2-1605  
R14-2-1606  
R14-2-1607  
R14-2-1608  
R14-2-1609  
R14-2-1610  
R14-2-1611  
R14-2-1612  
R14-2-1613  
R14-2-1614  
R14-2-1615  
R14-2-1616  
R14-2-1616  
R14-2-1617  
R14-2-1618

### **Rulemaking Action**

Amend  
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Repeal  
New Section  
New Section  
New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: Arizona Constitution, Article XV  
Implementing statute: A.R.S. §§ 40-202, 40-203, 40-250, 40-321, 40-322, 40-331, 40-332, 40-336, 40-361, 40-365, 40-367, and A.R.S. Title 40, generally.
3. **The effective date of the rules:**  
December 31, 1998
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**  
Notice of Rulemaking Docket Opening: 4 A.A.R. 2368, September 4, 1998.  
Notice of Emergency Rulemaking: 4 A.A.R. 2393, September 4, 1998.  
Notice of Proposed Rulemaking: 4 A.A.R. 2416, September 4, 1998.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Ray Williamson, Acting Director, Utilities Division  
Address: Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007  
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*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

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(602) 542-2129

6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

On December 26, 1996, in Decision No. 59943, the Commission adopted rules which provided the framework for the introduction of retail electric competition in Arizona. These rules are codified at A.A.C. R14-2-1601 et seq. Competition in the retail electric industry is to be phased-in beginning in January 1999.

The Commission initiated the present rulemaking to modify Articles 2 and 16 of the Arizona Administrative Code to provide the details of the structure and process of that competition in order to meet the target date of January 1, 1999, and to ensure the reliability of the electric system during the transition to competition. These rules are designed to help ensure that the transition is orderly and understandable for customers, fair and efficient for all market participants, and consistent with continued system reliability.

The rules contain the following major provisions:

Section R14-2-201 et seq. contain various conforming changes to the existing rules necessitated by the revisions to Article 16.

Section R14-2-1601 sets forth new definitions necessitated by other changes to the rules.

Section R14-2-1603 clarifies which entities are required to apply to the Commission for a Certificate of Convenience and Necessity.

Section R14-2-1604 modifies the timetable for implementation of retail electric competition for the various classes of customers and requires affected utilities to report to the Commission on possible mechanisms, such as a rate reduction, to provide benefits to those customers not eligible for competitive electric services during the transition period.

Section R14-2-1605 clarifies that aggregation services are competitive and that self-aggregation services do not require a Certificate of Convenience and Necessity.

Section R14-2-1606 requires utility distribution companies to offer standard offer service after all retail customers are eligible for competitive services in 2001 and establishes those companies as the provider of last resort. The rule is amended to require utility distribution companies serving standard offer customers to purchase power by competitive bid except for spot-market purchases. It also allows the utility distribution companies who have power contracts in excess of 12 months to ratchet down power purchases.

Section R14-2-1607 incorporates the provisions of Commission Decision No. 60977 dated June 22, 1998, on stranded cost recovery. The changes to the rule would allow (not guarantee) affected utilities a reasonable opportunity to recover unmitigated stranded cost; the utilities must still take reasonable, cost-effective steps to recover unmitigated stranded cost. The affected utilities must request Commission approval of distribution charges or other mechanisms to collect unmitigated stranded cost from customers that reduce or terminate service or who obtain lower rates from the utility as a direct result of competitive services being offered.

Section R14-2-1608 requires that a systems benefit charge be paid by all participants in the competitive market and that affected utilities or utility distribution companies file for review of the systems benefit charge every 3 years. It also adds nuclear fuel disposal charges to those charges included in the systems benefit charge.

Section R14-2-1609 establishes a solar portfolio to encourage photovoltaic and solar thermal power generation. To encourage an early start for solar generation, a variety of extra credit multipliers are set forth that may be used to meet the standard. Solar generation installed to meet the standard will count toward meeting the renewable resource goals of the Integrated Resource Planning Order (Decision No. 58643). Providers failing to meet the targets of this section are subject to a penalty. Any monies accruing as a result to this penalty will be deposited in a newly established fund, the proceeds of which would be administered by and independent entity and used to purchase solar generation or solar electricity for public entities such as state, county, or city entities, or school districts.

Section R14-2-1610 requires that Affected utilities provide nondiscriminatory access to transmission and distribution facilities. It contains a policy statement that the Commission supports the development of an Independent System Operator or, at a minimum, and Independent System Administrator.

Section R14-2-1611 states the service territories of Arizona electric utilities that are not affected utilities are not open to competition and that those non-affected utilities are not eligible to compete for customers in the service territory of affected utilities. However a non-affected utility may compete in the service territories of affected utilities if the non-affected utility allows reciprocity and opens its service territory to competition.

Section R14-2-1612 sets forth the parameters of allowable rates for competitive services and requires that tariffs containing the rates be filed with and approved by the Commission. The rates may be set at a maximum level, subject to discount. Rates cannot be discounted below cost. Increases in maximum rates must be approved by the Commission.

Section R14-2-1613 provides consumer protections against slamming (the unauthorized changing of providers). All providers of electric service are required to meet all applicable reliability standards and any electric Service Provider is required to provide at least 45 days notice of its intent to cease providing service to a given customer. The rules also sets forth the various metering protocols.

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

Section R14-2-1614 lists that reports required to be filed by affected utilities, utility distribution companies and electric service providers. The revisions add the number of customers aggregated and the aggregated load.

Section R14-2-1615 contains no significant changes.

Section R14-2-1616 is a new section that requires competitive generation assets to be separated from an affected utility by January 1, 2001. An affected utility may either transfer the competitive generation assets or services to an affiliate or an unaffiliated third party. The rule provides that the Commission may determine a fair and reasonable value if a transfer is made to an affiliate.

The rule provides that an affected utility or utility distribution company may not provide competitive services except as otherwise provided in the rules although the rule does allow an affected utility or utility distribution company to bill its own customers for distribution service or for providing billing services to electric service providers in conjunction with billing for its own service.

The rule also exempts electric distribution cooperatives so long as the cooperative is not offering competitive services outside of the service territory it has as of the effective date of the rules.

Section R14-2-1617 sets forth certain safeguards necessary to ensure that ratepayers of remaining monopoly entities are not disadvantaged in any way by the actions of affiliates of the monopoly enterprises.

The rule requires that, among other items, separation of books and records, a prohibition against sharing office space, equipment, or services without full compensation as provided in the rule, prohibitions against transfer of information, prohibitions against an affiliates use of an affected utility's or utility distribution company's logo in advertising, prohibitions against joint marketing, and prohibitions against sharing of employees and corporate officers and directors.

The rule requires that, beginning December 31, 1998, each affected utility or utility distribution company file a compliance plan requiring Commission approval setting forth the procedures it will follow to ensure that the rule is followed. Annual updates to reflect material changes are required. A performance audit, done by an outside auditor, is required annually until the year 2002. After that time, the Director, Utilities Division may request an audit.

Section R14-2-1618 requires that each customer with a demand of less than 1MW be provided with certain information so that they can make comparisons among competing suppliers and decide which suppliers product best meets their needs. This section also requires that each entity prepare a statement of its terms and conditions of service and requires that certain basic information be included.

The Corporation Commission has determined that these rules are exempt from the Attorney General's certification provisions of the Arizona Administrative Procedure Act (A.R.S. (41-1041) by a court order (State v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable

8. **The summary of the economic, small business, and consumer impact:**  
I. Identification of the proposed rulemaking.

The adopted rule revisions provide for procedures and schedules to implement the transition to competition in the provision of retail electric service.

- II. Economic, small business and consumer impact statement.

Under the rules, end users of competitive electric services may benefit sooner from greater choices of service options and rates because full competition will occur earlier than it would have under the prior rule. However, some small consumers will not participate in the competitive market as quickly as they would have under the prior rules.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. Consumers will also benefit from protections in the proposed rules regarding "slamming", notification of outages, and metering standards.

Business consumers who aggregate their loads from multiple sites will incur fewer costs associated with regulatory requirements because these customers (defined as self-aggregators) will not have to apply for a Certificate of Convenience and Necessity under the proposed rules.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected utilities may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may benefit from increased sales, encouraged by changes to the solar port-

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

folio standard regarding economic development. Manufacturing companies locating or expanding in Arizona may hire additional employees. Suppliers to the manufacturing companies may also benefit and hire additional employees. Tax revenues may increase from both the manufacturers and their suppliers in Arizona.

Public entities may benefit from implementation of the solar electric fund through their use of the fund to purchase solar electric generators or solar electricity.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, establishing a Solar Electric Fund, developing standards for solar generating equipment, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

The rule revisions will allow the Commission to more effectively implement the restructuring of the retail electric market.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):  
I. CHANGES IN THE TEXT OF THE ADOPTED RULES FROM THAT CONTAINED IN THE NOTICE OF PROPOSED RULEMAKING FILED WITH THE SECRETARY OF STATE

**A. ARTICLE 2. ELECTRIC UTILITIES**

**A.A.C R14-2-203 - Establishment of Service**

R14-2-203(B)(1)(a) and (6)(a) and (b) are modified to comply with the format requirements of the Secretary of State.

The following language was added to R14-2-203(D)(4): "This section shall not apply to the establishment of new service, but is limited to a change of providers of existing service."

**A.A.C R14-2-204 - Minimum customer information requirements**

R14-2-204(A)(1)(c) was modified to comply with the format requirements of the Secretary of State.

**A.A.C R14-2-209 - Meter Reading**

R14-2-209(A)(2) and (3) and (B)(2) and (C)(1) are modified to comply with the format requirements of the Secretary of State. The word "Reader" is changed to "Reading" in R14-2-209(A)(8). R14-2-209(E)(1) is modified to refer to the current 1995 edition of ANSI C12.1 (American National Standard Code for Electricity Metering) replacing the reference to the 1988 edition.

**A.A.C R14-2-210 - Billing and collection**

The words "without customer authorization" is moved to the end of the second sentence in R14-2-210(A)(1). The words "for Meter Service Providers" is added after "penalties" in 210(A)(3)(d) and a new 210(A)(5)(d) is added as follows: The word "Use" is deleted and "The utility can obtain" is inserted; and "whenever possible," is deleted." Provision 210(A)(6)(c) is eliminated.

In the first sentence of 210(E)(1), the word "Reader" is deleted and the words "or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity" is inserted after the first "customer".

In R14-2-210(F)(1) the phrase "or other financial instrument" is inserted after "check" and the term "or other financial institution." Is inserted after "bank".

In paragraph (F)(3) the term "or financial instrument" is inserted after "check".

R14-2-210(A)(4) and (5)(b), (B)(1), (D)(4) (E)(3) (G)(5) (H)(2)(c) and (I)(2) are modified to comply with the format requirements of the Secretary of State.

**A.A.C R14-2-211 - Termination of service**

R14-2-211(A)(f)(ii), (B)(3), (C)(1)(a), (b) and (c), and (C)(2) are modified to comply with the format requirements of the Secretary of State.

**B. ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**A.C.C. R14-2-1601 - Definitions**

In R14-2-1601(4) "An Affected Utility" is changed to "a Load-Serving Entity." In subparagraph (22), "Meter Reading Service" is changed to "Meter Service Provider." In subparagraph (24), "validated" is replaced with "billing-ready." In paragraph (29), subsection "J" is added to "R14-2-1613". In subparagraph (39)(a)(i) "December 26, 1996" is substituted for the phrase "the adoption of this Article." In R14-2-1601(40) insert "Market transformation" and "long-term public benefit research" and "management".

**A.C.C. R14-2-1603 - Certificates of Convenience and Necessity**

R14-2-1603(A), (C) and (G)(3) are modified to conform to the format requirements of the Secretary of State. Paragraph

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

1603(B)(7) is deleted and (B)(8) is renumbered as (7). Duplicate subparagraph (H) is re-lettered as (I) and original (I) is relettered as (J). The words "licenses, including relevant tax licenses" are added to paragraph 1603(I)(6).

**A.C.C. R14-2-1604 - Competitive Phases**

In Section 1604(A) add the words "First come, first served, for purposes of this rule, shall be determined for non-residential customers by the date and time of an ESP's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 180 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4."

In paragraph 1604(A)(2) the words "affected Utility" and "beginning January 1, 1999." Are deleted and the words "During 1999 and 2000, an Affected Utility's" are added at the beginning of the paragraph and the words "within that Affected Utility's service territory" are inserted after "1MW or greater."

In paragraph 1604(B)(1) the words "1/2 of 1%" are replaced with "1+%" "In paragraph 1604(B)(3) the words "Load Profiling may be used; however, residential" are deleted. The word "residential" is inserted at the beginning of the sentence and the words "shall be permitted to use Load Profiling to satisfy the requirements for hourly consumption data; however they" are added after "phase-in program".

In paragraph 1604(G) the words "Affected Utility, Utility Distribution Company, or" are deleted and the year "2001" is replaced with "1999". The words "the date indicated in R14-2-1604(A)" are deleted and replaced with the date "January 1, 1999".

The words " , at which time all customers shall be permitted to aggregate, including aggregation across service territories." Are added to the end of 1604(D).

Subparagraphs 1604(B)(1), (4) and (5) are modified to comply with the format requirements of the Secretary of State.

**A.C.C. R14-2-1606 - Services Required To Be Made Available**

In paragraph 1606(A) the words "that class in" are deleted. And the subsection is further modified to conform to the format requirements of the Secretary of State.

**A.C.C. R14-2-1610 - Transmission and Distribution Access**

R14-2-1610(G)(2) is modified to conform to the format requirements of the Secretary of State.

**A.C.C. R14-2-1613 - Service Quality, Consumer Protection, Safety, and Billing Requirements**

In paragraph 1613(C), the words "slamming may result in fines and penalties, including but not limited to "are deleted and replaced with "Unauthorized charges or providers may result in penalties and/or".

A new paragraph (D) is inserted as follows: "A customer with an annual load of 100,000 kWh or less may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider." The following paragraphs are renumbered accordingly.

In renumbered paragraph (I) the words "and to the appropriate Utility Distribution Company" are added after "customer".

In renumbered paragraph (K) the words "using EDI formats" are added after "shall provide access", and the words "or their representative" are added after "and the Electric Service Provider" in paragraph (K)(8).

In renumbered subparagraph 1613(L)(c), the words "'his or her'" are deleted and replaced by "the Director's".

In R14-2-1613(O)(1) and " , " is added to subpart (a) and the word "and" is added to subpart (b). The same modifications are made to subpart (O)(2) and (3).

**A.C.C. R14-2-1616 - Separation of Monopoly and Competitive Services**

R14-2-1616(B) is modified by deleting the word "may" and inserting "shall" in the third sentence and inserting words "if requested by an ESP or customer" after "provide", and adding the following language at the end of the sentence: "during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as two or more competitive ESPs are offering such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer the service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the two competitive ESPs."

**A.C.C. R14-2-1617 - Affiliate Transactions**

R14-2-1617(E) is modified to delete the words "No later than December 31, 1999, and every year thereafter until December 31, 2002." At the beginning of the fifth sentence. The words "starting no later than the calendar year 1999, and every year thereafter until December 31, 2002" are inserted after "herein".

**A.C.C. R14-2-1618 - Disclosure of Information**

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

R14-2-1618(B) is modified by deleting subpart (2) and renumbering the remaining subparts.

In R14-2-1618(D), the words "materials, including electronically published materials" are deleted and replaced with the words "materials specifically targeted to Arizona." The words "or in written materials not specifically targeted in Arizona," are inserted after "non-print media".

R14-2-1618(F)(8) is modified to conform to the format requirements of the Secretary of State.

**10. A summary of the principal comments and the agency response to them:**

**II. EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE PROPOSED RULES**

**A. Article 2 - Electric Utilities**

**A.A.C. 14-2-203(C)**

**Issue:** PG&E Energy Services ("PG&E") proposed modifying R14-2-203(C) to include a provision that an Electric Service Provider ("ESP") does not have to provide service to any class that it does not have a product or service offering for. Staff believed the change was not necessary because Staff did not intend to use this Rule to force ESPs to offer services for which ESPs do not have product or service offerings.

**Evaluation:** It is not the Commission's intent to require ESPs to offer services for which they do not have a product or service offering.

**Resolution:** No change is necessary.

**A.A.C. 14-2-203(D)**

**Issue:** The Residential Utility Consumer Office ("RUCO") proposed that R14-2-204(D)(4) should only apply to customers who are switching ESPs. Staff concurred with RUCO.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** RUCO's proposed language should be added to the end of R14-2-203(D)(4).

**R14-2-210(A)**

**Issue:** RUCO proposed that customers be permitted to authorize meter reading schedules that are either longer or shorter than the 25 to 35 day presumptive period stated in paragraph (A)(1). Staff concurred with the proposed RUCO change to paragraph (A)(1).

**Evaluation:** We concur with RUCO and Staff that customers should be able to authorize longer or shorter meter reading periods.

**Resolution:** Move the words "without customer authorization" which appears in the second sentence of paragraph (A)(1) to the end of that sentence.

**Issue:** RUCO proposed removing the last sentence of paragraph (A)(3)(d) because the Commission has no authority to impose penalties on customers of utility services. To clarify its intent, Staff proposed inserting the words "for Meter Service Providers" after the word "penalties" in the last sentence of paragraph (A)(3)(d).

**Evaluation:** We concur with Staff's proposed modification.

**Resolution:** Insert the words "for Meter Service Providers" after "penalties" in 210(A)(4)(d).

**Issue:** RUCO proposed that 210(A)(6)(c) should be reworded and moved to paragraph 210(A)(5)(d) to require that an estimated bill is not permitted if the utility can obtain a customer supplied meter reading. Staff concurred.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Add new 210(A)(5)(d) as follows: "The utility can obtain customer supplied meter readings to determine usage." and delete 210(A)(6)(c).

**Issue:** CellNet Data Systems ("CellNet") proposed modifying R14-2-209(A)(9) to read "meter shall be read, at a minimum, monthly . . . ." Staff believed that the proposed change was not necessary because R14-2-210(A) allows for longer or shorter periods for meter reading with customer authorization.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-210(C)**

**Issue:** RUCO proposed changing paragraph (C)(1) from utility bills are due no later than 15 days after they are rendered, to bills shall be due no sooner than 15 days after they are rendered. Staff believed that 15 days for paying bills are reasonable and that no change is necessary.

**Evaluation:** We concur with Staff.

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

**Resolution:** No change.

**R14-2-210(E)**

**Issue:** RUCO contends that the language in paragraph (E)(1) duplicates and slightly contradicts the language in R14-2-209(F). RUCO proposed eliminating the paragraph (E)(1) in favor of the broader language in R14-2-209(F). RUCO further proposed removing the words "Company will" and insert the words "utility or billing entity shall" in paragraph (E)(1)(a) and (b).

In paragraph (E), CellNet proposed to reference the metering standards approved by the Director of the Utilities Division.

Staff believed that the possible contradiction between paragraph (E)(1) and R14-2-209(F) should be remedied by conforming the language of 210 to that of 209. Staff also believed the CellNet's suggestion is not necessary because the metering standards are already referenced by R14-2-1613(I)(15).

**Evaluation:** We concur with Staff and RUCO that R14-2-210(E)(1) and 209(F) are redundant. We concur with Staff that CellNet's proposal does not appear necessary.

**Resolution:** Adopt Staff's proposed modifications as follows: In the first sentence of paragraph (E)(1), delete the word "Reader" and insert after the first "customer" " , or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity".

**R14-2-210(F)**

**Issue:** RUCO proposed changes that would broaden the terms in these paragraphs to include financial institutions, not just banks and to include methods of payment other than checks. Staff believed RUCO's proposed changes should be adopted.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Adopt Staff's proposed modification by inserting the words "other financial instrument" after "check" and "or other financial institution" after "bank".

**B. Article 16 - Retail Electric Competition**

**R14-2-1601(5) - Competition Transition Charge**

**Issue:** Arizona Public Service ("APS") suggested that the definition of Competition Transition Charge ("CTC") be modified by adding the word "purchasing" after "customers," Citizens Utility Company ("Citizens") suggested that the definition be expanded to include "other Commission-allowed costs attributable to the introduction of competition" in order to allow for inclusion of new costs, such as load profiling, into the CTC. Staff believed that the definition is sufficiently clear without modification and that adding costs to the CTC in addition to Stranded Costs would be inappropriate, as the CTC is not intended as a recovery mechanism for all costs associated with the move to competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(9) - Current Transformer**

**Issue:** Citizens suggested that the words "energy consumption" be replaced with "electric current" to provide a more precise definition. Staff believed the definition is sufficiently precise.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(10) - Direct Access Service Request**

**Issue:** CellNet argued that it would be problematic to allow the customer to submit the Direct Service Access Request ("DSAR") directly to its Utility Distribution Company without going through the new Electric Service Provider. In addition, CellNet believed that DASR forms should be submitted using Electronic Data Interchange ("EDI").

Staff claimed that CellNet provided no justification for the conclusion that allowing customers to submit a DASR from would pose problems. Staff believed that the suggestion that DASRs be submitted via EDI has merit, but Staff thought that requiring electronic submission would make it difficult for customers without EDI capability.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(12) - Distribution Primary Voltage**

**Issue:** Arizona Electric Power Cooperative ("AEP") recommended that the words "as it relates to metering transformers" be added to the definition of Distribution Primary Voltage. Staff believed the definition is sufficiently precise.

**Evaluation:** We concur with Staff.

**Resolution:** No change.



*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

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**R14-2-1601(13) - Distribution Service**

**Issue:** Citizens suggested replacing "to deliver" with "governing the delivery, measurement, and billing" in order to add clarity. Staff believed the definition is sufficiently clear.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(16) - Electric Service Provider Service Acquisition Agreement**

**Issue:** CellNet suggested that the Commission take a more active role in defining the content and general provisions of electric service provider service acquisition agreements. Staff argued the CellNet provided no specific recommendations as to what the agreements should contain. Staff believed that it is appropriate to allow the ESP and UDC to negotiate the content of the agreements. Staff noted that R14-2-1603(G) requires that the negotiation in good faith allows the use of the Commission's complaint procedure if an Electric Service Provider is unable to reach an agreement.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(22) - Load Serving Entity**

**Issue:** CellNet points out that the phrase "Meter Reading Service" should be changed to "Meter Service Provider." Staff concurred.

**Evaluation:** We concur with CellNet and Staff.

**Resolution:** Change "Meter Reading Service" to "Meter Service Provider."

**R14-2-1601(23) - Meter Reading Service**

**Issue:** Citizens suggested that the definition of "meter reading service" be modified by adding the words "validation, posting and storage" in order to make the definition more complete. APS recommended that the words "for non-Standard Offer and other customers on non-competitive electric service" be added at the end of the definition because meter reading for Standard Offer and other non-competitive electric service customers remain regulated.

Staff believed that the definition's inclusion of all functions related to the collection and storage of consumption data renders the definition sufficiently complete and unambiguous.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(24) - Meter Reading Service Provider**

**Issue:** Citizen's suggested changing the word "validated" in the two places it occurs to "bill-ready" in order to avoid a circular definition and to utilize industry-accepted language. Staff agreed and recommended Citizen's suggestion be adopted.

**Evaluation:** We concur.

**Resolution:** Change "validated" to "bill-ready" whenever it appears in R14-2-1601(24).

**R14-2-1601(26) - Metering and Metering Service**

**Issue:** APS recommended that the words "for Standard Offer customer, excepting those functions related to distribution primary voltage CTs and PTs above 25 kV" be added at the end of the definition because PTs and CTs above 25 kV and Standard Offer metering remain regulated. Staff believed the additional language is unnecessary because the context makes clear whether the reference is to a monopoly or competitive service.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601 (27) - Must-Run Generating Units**

**Issue:** AEPCO recommended that the definition of "must-run generating units" be modified by eliminating the word "distribution" before "system reliability," and to replace from "in times of congestion" to the end of the definition with ", voltage requirements, system reliability and contingencies to meet load on certain portions of the interconnected transmission grid" to reflect current consensus thinking within the Reliability Working Group. Staff believed the definition is sufficiently precise as written.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(29) - Noncompetitive Services**



**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

**Issue:** CellNet suggested that the reference to R14-2-1613 be changed to R14-2-1613(K), since section K is the only relevant part of the that rule. Staff agreed.

**Evaluation:** We concur.

**Resolution:** Add "J" after "R14-2-1613".

**R14-2-1601(3) - OASIS**

**Issue:** The Attorney General's Office ("AG") believed that the definition of "OASIS" appears to be a particular brand name, and recommended that the rule define a technical standard rather than a brand name. Staff noted that "OASIS" is not a brand name but is an acronym used in the industry for the type of electronic bulletin board described in the rule.

**Evaluation:** No change required.

**Resolution:** No change.

**R14-2-1601(32) - Potential Transformer**

**Issue:** Enron recommended that "120V" should be replaced with "levels more appropriate" and that ("E.g., 115 or 120 volts") should be added at the end of the definition. Staff believed that the rule encompasses primary voltage levels below 120V, and that no change is necessary.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1601(35) - Scheduling Coordinator**

**Issue:** AEPCO suggested changing the definition by replacing "control Area Operator" with "control Area Operator/Transmission Owner" in order to reflect current consensus among the Reliability Working Group. APS believed that the words "designated by the Commission" should be added after "entity" to put the Commission in charge of determining both the number and qualifications of Scheduling Coordinators. Staff believed that the definition is sufficiently precise and that the Commission does not need to play a role in designating Scheduling Coordinators.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(39) Stranded Cost**

**Issue:** AEPCO suggested that the definition of Stranded Cost be expanded to include one time costs incurred by Affected Utilities for changes to infrastructure required as a result of the rules. The AG recognized that the rule complies with the Commission's Decision on stranded costs, Decision No. 60977, but argued that the Commission lacks the lawful authority to designate any cost, whether related to a "taking" or not, as stranded cost. The AG urged the Commission to continue to utilize the definition originally adopted in the rules. Enron recommended that "book" be inserted before "value" in subsection (a)(i) of the definition. APS recommended that a new subsection (d) be added, which reads "other transition costs as approved by the Commission." RUCO recommended that the phrase "prior to the adoption of this Article" in subsection (a)(i) should be replaced with "prior to December 26, 1996," in order to minimize confusion in light of the amendments to the rules being adopted.

Staff believed that the rule is consistent with Decision No. 60977 concerning Stranded Costs. Staff argued the language suggested by AEPCO and APS would expand the definition beyond that contained in the Commission's Decision on Stranded Costs. Staff disagreed with the conclusion of the AG that the Commission lacks the legal authority to determine Stranded Costs, and argued that the Commission's expansive ratemaking authority under Article XV of the Arizona Constitution encompasses the ability to determine what costs are recoverable by a utility. Staff agreed with Enron that the "value" referred to in subsection (a) (i) is "book value," but believed that a change was not required. Finally, Staff agreed with RUCO that confusion would be avoided by the using the date December 26, 1996, instead of referring to the date of the adoption of the rules.

**Evaluation:** We concur with Staff's analysis.

**Resolution:** Insert the date December 26, 1996 as proposed by RUCO.

**R14-2-1601(40) - System Benefits**

**Issue:** APS recommended that "customer education" be included in system benefits. RUCO objected to including nuclear power plant decommissioning costs in system benefits. Staff believed it is not necessary to determine the specific recovery mechanism for customer education costs in the rules, and that the Commission should not make a determination on the recovery mechanism until it has considered all appropriate options. Staff disagreed with RUCO regarding the nuclear plant decommissioning costs, as one of the necessary costs of a nuclear power plant is the cost of decommissioning that plant at the end of its life. Staff argued that because APS's customers have enjoyed the power from Palo Verde they should bear a responsibility for paying the costs of decommissioning and that it is appropriate to recover those costs from all APS's customers through the system benefits charge. In its analysis of the comments to R14-2-1608 System Benefits, Staff agreed that the terms "market transformation and long-term public benefit research" should be included in the definition of Systems Benefits in 1601(40).

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

**Evaluation:** We concur with Staff.

**Resolution:** Add the terms "market transformation" and "long-term public benefit research".

**R14-2-1601(41) - Transmission Primary Voltage**

**Issue:** Tucson Electric Power Company ("TEP") believed that the rule should state that Transmission Primary Voltage is defined under the Affected Utility's FERC Open Access Transmission Tariff. APS was concerned that the definition of Transmission Primary Voltage as being above 25 kV conflicts with the FERC's definition of transmission for APS as being 69kV and above. Staff believed that qualifying language in the definition of Transmission Service at R14-2-1602(42), to the effect that this definition applies only "as it relates to metering transformers," alleviates the concerns of both TEP and APS.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(43) - Unbundled Service**

**Issue:** CellNet pointed out a potential contradiction between the definition of Unbundled Service and R14-2-1616(B). According to CellNet, while this definition authorizes unbundled services to be sold to consumers, R14-2-1616(B) appears to limit Affected Utilities and Utility Distribution Companies to providing certain unbundled services to customers within their service territories only when those customers do not have access to the services. Staff responded that R14-2-1616(B) does not limit the unbundled services that an Affected Utility or Utility Distribution Company may offer, and disagreed that there was any inconsistency.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Other Comments concerning R14-2-1601**

**Issue:** Several parties recommended that new definitions be added. Staff noted that many of the definitions have been included in the rules, and argued that any definitions not included are not crucial to the proper interpretation and functioning of the rules. Staff recommended that R14-2-1601(4) defining Buy-through, be modified by replacing "Affected Utility" with "Load-Serving Entity" in order to conform to Staff's comments regarding R14-2-1604.

**Evaluation:** We concur with Staff.

**Resolution:** Delete "Affected Utility" and replace with "Load-Serving Entity."

**R14-2-1603 - Certificate of Convenience and Necessity**

**R14-2-1603(A)**

**Issue:** TEP suggested that the phrase "or self-aggregation" be eliminated. The Western Area Power Administration recommended that Scheduling Coordinators be required to obtain Certificates of Convenience and Necessity ("CC&N's"). ASARCO Incorporated, Cyprus Climax Metals Company, Arizonans for Electric Choice and Competition, Morenci Water and Electric Company, Ajo Improvement Company, and Phelps Dodge Corporation (collectively "ASARCO et al.") suggested adding metering and meter reading services to the services that do not require CC&Ns.

Staff believed that an individual entity should not have to become a certificated ESP to aggregate its own load. Staff argued the change suggested by the Western Area Power Administration is not necessary because an ESP may also be its own Scheduling Coordinator pursuant to qualifications set by the Independent Scheduling Administrator. Further, the Scheduling Coordinator does not provide a competitive retail electric service. Staff also believed that metering and meter reading

services should require certification because of the safety reliability issues associated with metering.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1603(B)**

**Issue:** New Energy Ventures ("NEV") argued that the Commission should eliminate the rule requiring filing of tariffs with maximum rates. RUCO proposed to modify the language of paragraph (B)(5) to require that unaudited information be identified as such, and that the preparer be identified.

Staff believed the public interest requires that maximum rates be set. Staff also believed that most financial reports are already identified as being audited or unaudited and thus, no change was necessary. In its additional comments filed November 24, 1998, Staff recommended deleting proposed section 1603(B)(7) concerning relevant tax licenses and moving it to 1603(H)(6).

**Evaluation:** We concur with Staff.

**Resolution:** Delete proposed 1603 (B)(7).

**R14-2-1603(C)**

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

**Issue:** Enron suggested that this subsection be modified to require changes to a CC&N application only when the changes are material. Staff argued that an applicant should not have to determine if any change in a CC&N application is material, and thus, no change is necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1603(E)**

**Issue:** The AG believed that this rule should not require any applicant for a CC&N to notify its competitor or the UDC because the special notice implies a right to object at the CC&N stage, which a competitor should not have. Staff believed that as a holder of a CC&N, the Affected Utility should know if it will be subject to competition in its service territory, and thus, no change was necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1603(G)**

**Issue:** PG&E recommended that the rule should be modified to include a deadline and standard for agreement terms to motivate the Arizona Affected Utilities to negotiate a "reasonable standard" ESP Service Agreement. The AG felt that the requirement that an ESP have a Service Acquisition Agreement is unreasonable without some deadline for the UDC to act in a non-discriminatory manner to close an ESP application. The AG also believed that R14-2-1603(G)(5) should be stricken, stating that the certification of a bona fide competitor is by definition in the public interest, and that requiring an applicant to demonstrate that its certification would be in the public interest is an unnecessary burden. TEP wanted the rules to specify the terms and conditions to the service acquisition agreement. ASARCO, et al., recommended that the entire section be deleted, as competition and not public interest should be the test to whether an applicant is certified.

Staff contended the proposed rules require good faith bargaining on the part of the UDC to negotiate a service acquisition agreement and the terms and conditions of the service acquisition agreement should be negotiated and then submitted to the Director of the Utilities Division for approval. Staff disagreed with ASARCO, et al., and the AG that CC&Ns are not necessary in the era of competition. Staff believed that the public interest still needs to be considered when deciding if a given entity is fit and proper to provide service. Thus, Staff argued no change is required.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**General Comments Concerning R14-2-1603**

**Issue:** TEP believed that Staff was attempting to add more rules through the material it is requesting in the CC&N application. TEP raised the concern that the amended rule does not address the settlement process between ESPs and UDCs, the process by which the UDC determines whether the actual power used by the ESP's customers is greater than, equal to or less than the power scheduled and delivered by the ESP and the reconciliation or resulting differences, including the issues related to pricing of such power variances. The AG suggested that the entire section be changed into a licensing procedure and not a CC&N procedure.

Staff noted that R14-2-1603(B)(8) allows the CC&N application to include such other information as the Commission or Staff may request to make a determination as to whether the application would be in the public interest. Staff reiterated its belief that the acquisition service agreement between the ESP and UDC should be negotiated and the submitted to the Utilities Division Director for approval. Staff also reiterated that the CC&N procedure as outlined in the rule is appropriate and the Commission has a legitimate interest in ensuring that a provider will serve the public interest by entering the electric market.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1604 - Competitive Phases**

**R14-2-1604(A)**

**Issue:** AEPCO, Duncan Valley Electric Cooperative ("DVEC") and Graham County Electric Cooperative ("GCEC") suggested that the 40kW requirement for eligibility be based on an annual average, not a one month peak. APS recommended that the 40kW minimum requirement for eligibility be raised to 100kW. ASARCO et al. recommended that the loads of all special contract customers be eligible for competitive services upon expiration of the contracts. PG&E recommended that the 40kW minimum requirement for eligibility be reduced to 20 kW. TEP believed that "non-coincident peak" should not be used as a criterion to determine eligibility of customers with demands of 1 MW to participate in the competitive market during the phase-in. TEP also suggested that energy consumption over 6 months instead of 1 month be used as a criterion to determine eligibility of customers with 40 kW demands who do not have peak load data available.

Staff recommended the rejection of the suggestion of AEPCO and APS and that no change be made because using an annual

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

average raising the minimum requirement would reduce the number of customers eligible to participate in the onset of competition. Staff also argued that ASARCO, et al.'s suggestion be rejected and that no change be made because the loads of contract customers should be subject to the same 20 percent limitation as other customer loads and all eligible customers should participate on a first-come, first-serve basis. Staff rejected PG&E's suggestion because Staff believed that 40kW is a reasonable minimum requirement.

Staff stated that customers who currently are billed a demand charge can look at their bills to determine their "non-coincident peak." If "coincident peak" is used, only the Affected Utility would know whether a customer's load reached 1 MW at the time of the utility's peak. Customers should know whether a customer's load reached 1 MW at the time of the utility's peak. Customers should have the capacity to determine their eligibility and not be dependent on the Affected Utilities for that determination. Staff also believed that one month's consumption is sufficient for the purpose of determining eligibility. Therefore, Staff believed that no change to the rule is necessary.

For clarification, Staff recommended adding the following language after the first sentence of section 1604(A): "First-come, first-served, for the purpose of this rule, shall be determined for non-residential customers by the date and time of an ESP's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 180 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4."

In addition, Staff recommended replacing the first sentence of R14-2-1604(A)(2) with: "During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated into a combined load of 1 MW or greater within that Affected Utility's service territory will be eligible for competitive electric services."

**Evaluation:** We concur with Staff.

**Resolution:** Modify 1604(A) as recommended by Staff above.

**R14-2-1604(B)**

**Issue:** AEPCO suggested that load profiling not be used for residential customers and that the January 1, 1999 implementation date for the residential phase-in program is not achievable. CellNet recommended changing the first sentence to begin "In addition to the minimum 20% . . ." instead of "As part of the minimum 20% . . ." NEV recommended that customers in the competitive market have real-time interval meters instead of allowing load profiling for residential customers. RUCO proposed that the size of the residential phase-in program be significantly expanded and also proposed revised language in R14-2-1604(B)(3) to make it consistent with R1-2-1613(J)(7) regarding load profiling.

Staff argued the load profiling will be needed as a practical matter and that the January 1, 1999 implementation date is achievable. Consequently, Staff rejected AEPCO's and NEV's comments.

Staff opposed CellNet's suggestions because the rule requires Affected Utilities to make available only 20 percent of their load to competition, the residential phase-in program must be part of the 20 Percent of load. Staff believed the residential phase-in program as described in the rule is adequate.

Staff agreed the R14-2-1604(B) should be clarified as proposed by RUCO. In addition, we believe that the size of the residential phase-in program should be increased. By increasing the number of residential customers that will have access to competition from + of 1 percent to 1+ percent each quarter, for a total of 10 percent over the two year phase-in, we increase the possibility of meaningful residential participation in the competitive market. This will benefit both the additional residential customers who will now be able to participate in the competitive market, as well as the Affected Utilities who will gain added experience in the residential competition in anticipation of full competition beginning January 1, 2001.

**Evaluation:** We concur with Staff.

**Resolution:** Delete the words "Load profiling may be used; however," in the first line and insert "shall be permitted to use load profiling to satisfy the requirements for hourly consumption date; however they" after "program" in 1604(B)(3).

**R14-2-1604(C)**

**Issue:** The Arizona Community Action Association ("ACAA") asserted that to provide small customers with real opportunities or benefits, section (C) should be revised as follows: "Each Affected Utility shall file a report detailing possible mechanisms to provide benefits, such as rate reductions of 3 percent to 5 percent, over and above those already planned, to all customers determined not to be eligible for competitive electric services directly or through aggregation in a manner consistent with R14-2-1604(B). It is the intent of the Commission that customers not able to participate in the competitive market see real benefits in lieu of competitive opportunities."

ASARCO, et al. recommended that any rate reductions given to Standard Offer customers be reflected on the distribution portion of bills so as to promote competition rather than discourage competition. RUCO proposed that the Affected Utilities be required to request rate decreases for Standard Offer customers instead of merely being required to detail mechanisms to provide benefits.

Staff opposed ASARCO et al.'s suggestion because Staff noted that the required reports were filed September 15, 1998 and Staff is reviewing the reports with the intention that customers not eligible to participate in the onset of competition be given the greatest benefits possible. Staff recommended that the rate reductions not be reflected on the distribution portion of bills because

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

it could mislead customers into thinking that they would continue to receive the discount if they later obtain competitive services. Concerning RUCO's suggestion, Staff believed that the Commission does not have the authority to require utilities to request rate decreases.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1604(G)**

**Issue:** ASARCO, et al, recommended that Affected Utilities, UDCs and Load-Serving Entities be required to engage in buy-through with customers beginning January 1, 2001, instead of just allowing buy-throughs to occur. RUCO suggested that the terms "Affected Utility" and "Utility Distribution Company" are redundant because Load Serving Entity is defined to include both these entities. In addition, RUCO believed that the reference to the "date indicated in R14-2-1604(A)" is redundant.

Staff did not believe that Affected Utilities, UDCs and Load-Serving Entities should not be required to enter into buy-throughs. Staff agreed with RUCO that the rule should be modified.

**Evaluation:** We agree with Staff's conclusions.

**Resolution:** Amend this section to read: "A Load-Serving Entity may, beginning January 1, 1999, engage in buy-throughs with individual or aggregated consumers. Any buy-through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy-through effective prior to January 1, 1999, must be approved by the Commission."

**R14-2-1605 - Competitive Services**

**Issues:** The Arizona Consumers Council commented that without a CC&N or other similar registration, the Commission would not be able to control anti-competitive or other questionable activities by providers of services for which no CC&N is required. NEV believed that 1605(B) needed clarification related to the obligations and opportunities for UDCs to provide metering, billing and information services. NEV suggested that the UDC be allowed to provide metering, billing and information to Standard Offer customers and to an ESP under a tariff. NEV also believed 1605(B) is unclear as to under what circumstances customer groups and trade associations who aggregate would be required to obtain a CC&N. Citizens believed that Standard Offer customers should be protected with a safety net for metering and billing and information services from the UDC. Citizens believed that the rule amendment falls short and that there should be additional language that Affected Utilities and UDCs may provide meter reading billing and collection services within their service territory at tariffed rates. The AG thought 1605(B) was ambiguous and tied metering services to UDCs. The AG believed metering services should be a competitive service without Commission oversight that does not require a certificate, but merely subject to some sort of licensing procedure. Enron too, believed there may be confusion whether meter reading service is competitive.

Staff believed that the rules were sufficient to provide for consumer complaints and that amendments to provide for additional Commission oversight or certification than already provided were unnecessary. Staff believed it is clear from other provisions of the rules what services can be provided by the UDC and the ESP and what tariffs need to be filed to provide services. Staff stated that the purpose of section 1605 is to define what constitutes competitive services and noncompetitive services and to explain that certain competitive services do not require a CC&N.

The purpose of the rule is not to set out the obligations between the UDC and ESP. Staff believed the rule is clear that providing self-aggregation does not require a CC&N.

Staff agreed that metering services are competitive but that a CC&N is still required because the consumer needs to have accurate metering in a competitive environment and Commission oversight is an important aspect of providing reliability. Staff noted that unless the meter reading service is provided as a bundled transaction to Standard Offer customers, the services can be provided by a properly certificated ESP or an Affected Utility or a UDC under the rules and no amendment is necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606 - Services Required to Be Made Available**

**Issue:** NEV was generally concerned that Affected Utilities and UDCs are attempting to allocate costs unfairly to ESPs in their unbundled tariffs, although it did not offer specific amendments concerning this issue. NEV also requested the rules be amended to require that a final determination on unbundled tariffs be reached four months prior to the beginning of competition.

Staff noted that the timeframe of four months would be impossible without a delay in the onset of competition and that there was no reason that tariffs had to be approved at any particular date except at a time prior to the beginning of competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(A)**

**Issue:** APS suggested that language be added to 1606(A) that stated services offered at regulated rates would include recovery

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

of all reasonable costs. RUCO suggested that a conforming change be made to 1606(A) striking the words "in that class" from the first sentence.

Staff noted that regulated rates by definition include recovery of reasonable costs to offer the service and therefore no change was necessary as a result of APS's comments. Staff agreed with RUCO that the phrase should be struck.

**Evaluation:** We concur with Staff.

**Resolution:** Delete the words "in that class" from the first sentence.

**R14-2-1606(B)**

**Issue:** Both APS and TEP suggest that the sentence allowing UDCs to ratchet down power purchases for Standard Offer customers be stricken as it establishes a presumption in favor of this over other risk management tools. Citizens suggested more detail regarding power purchased by a UDC. ASARCO et al., suggested that 1606(B) be amended to require all competitive services included in Standard Offer service be put to bid.

Concerning TEP and APS's comments, Staff specifically recommended that this provision could be waived for good cause and no change is necessary. Staff also believed the rules provide adequate detail. Staff disagreed that any competitive piece of Standard Offer service should be put to bid, as the idea of Standard Offer service was to continue with "plain old electric service" during the transition period. Therefore, no change to the rule is necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(C)**

**Issue:** The Arizona Consumers Council thought 1606(C) should be strengthened to place a rate cap on Standard Offer service. CellNet believed that 1606(C) should include a specific reference to Section 1616 (the Affiliate Rules) to solidify that unbundled tariffs should be filed for services listed only to the extent allowed by other rules.

Staff disagreed because with the Arizona Consumers Council because a utility should be allowed to file a rate case and present evidence if it feels it needs a rate increase. Further, Staff believed no clarification is necessary, and that referencing the rules as a whole prevents one rule from being taken out of context.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(D)**

**Issue:** APS suggested striking information services as services required to be offered by Affected Utilities and striking the word "ancillary" in 1606(D)(7).

Staff believed that information services are an important service that can be offered in a competitive market and that the word ancillary is not confusing.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(G)**

**Issue:** The AG suggested that 1606(G) be amended to state that price not be included in the customer data to be released by a Load Serving Entity. TEP suggested that a fee be charged for data requested from a Load Serving Entity. PG&E thought that 1606(G) does not provide the opportunity for interested persons to participate in the unbundled rate filings.

Staff responded that this rule does not specifically articulate price as being part of the data that the Load Serving Entity has to release. However, Staff asserted that whatever data is released pursuant to the rule would be done only on written request of the customer, who should be able to release any data the customer wants, and thus, no change in the rule is necessary. Staff also believed that data requested from Load Serving Entities should be freely available to enhance a competitive market. Staff disagreed with the suggestion that there is a lack of opportunity to participate as any interested party may apply to intervene.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(H)**

**Issue:** CellNet believed that the provision that requires that rates reflect costs be eliminated as unnecessarily prescriptive. PG&E suggested this language is inappropriate in a competitive market.

Staff believed this is an appropriate requirement in a competitive market and no change to the rule is necessary.

**Evaluation:** We concur with Staff.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

**Resolution:** No change.

**R14-2-1607 - Recover of Stranded Costs of Affected Utilities**

**Issue:** As a general comment, RUCO believed that stranded cost recovery should be reflected in all customers bills and adopted the proposals made by Dr. Rosen in the evidentiary hearings on stranded costs. Staff believed that the stranded cost hearings were not part of the rulemaking process and that the Decision in that proceeding determined the relative merits of Dr. Rosen's comments.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-R1607(C)**

**Issue:** Arizona Transmission Dependent Utilities commented on the lack of guidance regarding burden of proof under various processes, inferring that the term "fully supported" does not adequately define the requirements of the rule.

Staff disagreed and believed that "fully supported" provides a high degree of definition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1607(D)**

**Issue:** RUCO proposed to provide recovery from both customers taking competitive service and from customers remaining on Standard Offer Service by means of a non-bypassable neutral wires charge.

Staff stated that the rules currently contemplated recovery of stranded costs from customers taking competitive service in a manner to be established in a utility-specific proceeding and that Stranded Cost recovery from customers not taking competitive service occurs under the existing bundled rate.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1607(F)**

**Issue:** RUCO and Citizens proposed to access a Competitive Transition Charge on all customers continuing to use the distribution system based on the amount of generation purchased from any supplier.

Staff reiterated that stranded cost recovery from customers remaining on Standard Offer service will occur through their Standard Offer rates. Staff argued that to charge a CTC could over-recover stranded costs from those customers.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1608 - System Benefits Charge**

**Issue:** RUCO believed that nuclear fuel disposal and nuclear plant decommissioning programs should not be included in the System Benefits Charge ("SBC"). Staff believed that it is appropriate to collect these costs through the SBC.

RUCO also believed that the terms "market transformation" and "long-term public benefit research and development" are vague and not defined. Staff responded that "market transformation" is a common utility industry term and does not need to be defined, and that use of the term "long-term public benefit research and development" is meant to be broad in scope to provide the Commission with flexibility if in the future it wishes to fund this type of program.

RUCO pointed out that the terms "market transformation" and "long-term public benefit research" are not included in the definition of System Benefits in R14-2-1601(40). Staff agreed that the terms should be included in the definition of System Benefits in R14-2-1601(40).

AEPCO argued that the Commission does not have the lawmaking or judicial powers to order the implementation of the solar water heater rebate program. TEP believed that the SBC should include competitive access implementation and Evaluation: program costs. APS believed that customer education should be included in the SBC. Staff disagreed with each of these proposals.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609 - Solar Portfolio Standard**

**Issue:** The Land and Water Fund of the Rockies ("LAW") argued that the solar Portfolio Standard ("SPS") has been compromised enough and should be implemented on schedule. TEP wants the rules to explicitly state that an ESP is deemed in compliance with the SPS if it uses the product of a solar affiliate. NEV thought an ESP's profit margins would be hurt by the SPS and suggested that Arizona implement a solar program through the SBC. AEPCO also criticized the SPS as expensive and chal-



**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

lenged the Commission's authority to establish the Solar Portfolio.

AEPCO recommended striking R14-2-1609 in its entirety.

Staff agreed with LAW that the SPS should not be changed. Staff believed TEP's suggestion was unnecessary as nothing precludes ESPs from using the solar products of an affiliate. Staff criticized NEV's cost calculations and argued that if entities take advantage of the new extra credit multipliers, the result will be solar electricity at a fraction of the cost of the penalty. Staff also disagreed with AEPCO's assertion that the SPS is expensive, arguing that the delivered cost of electricity for many solar technologies can be less than the true costs of electricity from a peaking plant.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(A)**

**Issue:** AECC expressed concern about the cost impact of SPS and requested the implementation schedules be more gradual. TEP thought the initial Solar Portfolio percentage should be reduced to 1/10th of 1 percent and that the percentage should only increase by 1/10th of 1 percent each year, until a one percent level is achieved. APS also recommended a 1/10th of 1 percent starting point.

Staff disagreed with TEP and SPS about reducing the Solar Portfolio percentage, because the starting point has already been substantially reduced. Staff argued that with the new extra multipliers, the "effective percentage" will be further reduced to 1/2 or 1/3 of the nominal percentage.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(B)**

**Issue:** APS was concerned that during the amendments of the Emergency Rules, proposed wording concerning a "kWh cost impact cap" failed to be included in the rule. APS suggested new wording to make the application of the SPS to Standard Offer customers in 2001 be contingent upon a Commission Order in 2000 establishing a specific cost per kWh cap.

Staff agreed with the recommendations of the SPS Subcommittee to include the kWh cost impact cap, but unfortunately, it was not included in the Emergency Rule Amendments. Staff believed that the rule modifications made in August 1998 are better than the proposed kWh cost impact cap because the SPS is locked in at 1 percent from 2003 to 2012 and the new extra credit multipliers reduce the "effective cost" of solar electricity.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(C)**

**Issue:** APS complained that from the earliest draft of the rules the SPS only applied to competitive electric generation, but with the Emergency Rules, it now applies to Standard Offer sales.

Staff responded that the wording of 1609(C) was merely a clarification of the intent of the original rule. The SPS is designed to apply to competitive customers during phase-in, but to all customers when there is full competition. Staff argued that APS was a full participant in the SPS Subcommittee process and understood the intent of the rule.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(D)**

**Issue:** APS suggested that the Early Installation Credit Multiplier be extended to at least 2005. Staff believed that the intent of the multipliers is to provide incentive during the early years of competition and thus, should only apply in the first five years.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(F)**

**Issue:** TEP recommended that any penalty funds be paid directly to the Affected Utility or UDC and that the investment be monitored by the Commission. APS recommended against penalty funds going to a Solar Electric Fund. APS recommended a 30 cent kWh wires charge to be used for solar projects, with the revenues from the solar projects financed by the wires charge be used to offset the SBC.

Staff argued that paying penalty funds to the UDC would only divide the funds into a number of small accounts which might be too small to efficiently use the money for solar projects. Staff believed that by collecting the funds into one large account and allocating them to "public entities" the Solar Electric Fund would benefit all Arizona taxpayers who would otherwise be paying

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

the public entities electric bill out of tax dollars. Staff strongly disagreed with APS's proposed 30 cent/kWh wires charge because it provides no incentive to find the cheapest solar resource and encourage competition amongst solar manufacturers to lower prices.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(H)**

**Issue:** PG&E was concerned that 1609(H) which allows solar electric generators installed by Affected Utilities to meet SPS requirements to also count toward meeting the renewable resource goals established in Commission Decision No. 58643, would cause unfair competition between

Affected Utilities and ESP's. TEP and APS suggested that the renewable goals in the IRP orders referenced in 1609(H) be repealed.

Staff disagreed with PG&E, arguing that without this provision it would be the Affected Utility that would be disadvantaged by being subject to both the SPS and the existing renewables goals. ESP's have no similar renewables goal requirements. Staff disagreed with eliminating the renewables goals as the intent of those goals is to encourage diversification of the electric generation mix away from a few conventional fossil fuel technologies.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1610 - Transmission and Distribution Access**

**Issue:** NEV suggested language be added to the effect that Staff should work with ESPs and UDCs to develop a standard UDC service agreement and ISA agreement over the two-year phase-in period. Under this proposal, Staff could coordinate the ongoing development of standard operating procedures for UDCs to deal with ESPs over this period.

Staff disagreed, believing the Commission is moving toward allowing utilities more flexibility in the competitive market and it would be inappropriate for Staff to impose standardized agreements.

Staff thought that if ESPs can show the Commission that utility agreements are unreasonable, Staff may, at a later time get involved in developing standardized agreements.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1610(H)**

**Issue:** TEP recommended that 1610(H) be modified to allow the Affected Utility to determine which units are must-run. TEP felt this section should clearly state that the charges for must-run generation will be paid by all distribution customers as a mandatory ancillary service.

Staff disagreed with both recommendations because the rule already calls for the Affected Utilities to work with the Reliability and Safety Working Group, and the rule already calls for the services from must-run units to be offered on a non-discriminatory basis as regulated prices to both Standard Offer and competitive customers.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1612 - Rates**

**Issue:** PG&E proposed to eliminate the requirement that contracts whose term is 1 year or more and for services of 1 MW or more must be filed with the Director of the Utilities Division. As an alternative, PG&E proposed that the Commission must provide confidentiality for filed contracts.

Staff disagreed with PG&E, as it believed it is important for the Commission to determine if contract pricing is above marginal cost, and furthermore, Staff stated they have always provided confidentiality for competitive contracts.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1612(E)**

**Issue:** CellNet proposed to eliminate the phrase "provided that the price is not less than the marginal cost of providing the service." CellNet was concerned that the rule is not specific as to whether the marginal cost will be by customer or hour by hour.

Staff believed the proposed change should not be made because this language provides the methodology the Commission will use to determine predatory pricing of particular services. Staff stated that its analysis of marginal cost will vary depending on a

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

number of factors.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1613 - Service Quality, Consumer Protection, Safety, And Billing Requirements**

**R14-2-1613(C)**

**Issue:** RUCO suggested that the proposed rule should be revised to clarify slamming by deleting the word "slamming" and adding the following language: "Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties and/or suspension or revocation of the provider's certificate."

Staff agreed with the proposed change.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Insert RUCO's proposed language.

**R14-2-1613(D)**

**Issue:** RUCO proposed inserting a new rule D as follows and renumbering to conform: "D. A customer with an annual load of 100,000 kWh or less may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider."

Staff agreed with the proposed change.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Insert RUCO's proposed new section and renumber accordingly.

**R14-2-1613(H)**

**Issue:** AEPCO, DVEC and GCEC suggested that in subsection (H), after the words "to their customer" add "and to the appropriate Utility Distribution Company."

Staff agreed with the proposed change.

**Evaluation:** We concur.

**Resolution:** Insert the proposed language.

**R14-2-1613(J)**

**Issue:** RUCO proposed modifying the existing language to provide for other metering options, as follows: "Competitive customers with hourly loads of 20kW (or 100,000kWh annually) or less shall be permitted to use Load Profiling to satisfy the requirements of hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules or metering." CellNet suggested requiring the use of EDI in the release of meter data and clarifying changes to paragraph (J)(4). In paragraph (J)(5) CellNet wanted to include a date by which Affected Utilities must provide a consistent statewide set of EDI formats for DASR transactions, and in paragraph (J)(6) CellNet proposed changing the 100,000 kWh annual requirement to an 8,250 kWh in any of the previous 12 consecutive months.

RUCO proposed changing the language in (J)(8) by substituting "obtains" for "will obtain."

CellNet stated that paragraph (J)(9) should not be construed that the provision of metering equipment maintenance and servicing can be provided by an Affected Utility other than through an Affiliate, provided those competitive services are available to the customer.

RUCO requested that in paragraphs (J)(13) through (J)(15), certain metering standards approved by the Director of the Utilities Division be included in the rules.

Because load profiling is the least expensive option for the smaller customer, Staff disagreed with the proposed changes as they change the original intent of the rule.

Staff agreed with CellNet on paragraph (J)(1) and recommended that the following changes be made: after the word "access," add "using EDI formats" and after "data" add "to".

Staff agreed with CellNet on paragraph (J)(4) and suggested that the following changes be made: after the word "into", delete the word "a", and change the word "format" to "formats". Staff has contacted the largest Affected Utilities which indicated they will have the formats available by the start date for competition, so no further change is required.

Staff disagreed with the proposed change to paragraph (J)(6).

Staff agreed to the proposed change to paragraph (J)(8).

Staff addressed CellNet's comment on paragraph (J)(9) in section R14-2-1616.

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

Staff disagreed with RUCO's proposed changes to 1613(J)(13) through (15).

**Evaluation:** We concur with Staff's recommendations.

**Resolution:** Revise 1613(J)(1), (4) and (8) as indicated above.

**R14-2-1613(K)**

**Issue:** CellNet suggested the Commission consider establishing a working group to monitor and offer recommendations on various market operations issues that may arise after January 1, 1999.

Staff believed this can be accomplished by allowing the Metering and Billing and Collections Committees to continue meeting until all issues are resolved.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1614 - Reporting Requirements**

**Issue:** NEV and APS believed that in general the reporting requirements were too burdensome, but did not make specific suggestions other than to work with Staff.

**Evaluation:** No change.

**R14-2-1615 - Administrative Requirements**

**Issue:** NEV asserted that ESPs should not be required to file tariffs or obtain Commission approval for competitive services and recommended that subsections (A) and (B) be deleted. Enron expressed similar concerns.

Staff disagreed, believing that in an emerging competitive market, tariff filings with maximum rates are necessary to protect the public interest. The tariffs are contemplated to give ESPs as much room as possible to compete. Staff asserted that the system has worked well in the telecommunications industry.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616 - Separation of Monopoly and Competitive Services**

**Issue:** NEV believed its comments related to 1605 to clarify the meter, billing and information services of UDCs and ESPs also apply to Section 1616. AEPCO believed that section 1616 should be struck in its entirety because it places limitations on the Affected Utilities' ability to provide competitive services without divesting or transferring its generation assets to an affiliate.

AEPCO also asserted that the Commission lacks jurisdiction to require divestiture or transfer of competitive generation assets from an Affected Utility.

Citizens commented that once divestiture of generation occurs, related stranded costs would be determined and a method established for recovery that would include generation of power supply to all of Citizens customers including Standard Offer customers. As a consequence, if the CTC charge would be collected only from competitive customers, and Standard Offer customers would be free from all the stranded costs resulting from or determined by divestiture of Citizen's power contract with APS, the stranded costs would be greater than any power cost savings. Therefore, Citizens argued customers would be unlikely to switch to competitive supply. Citizens believed that if the rule for divestiture of generation assets continues to be a requirement, that the transition charge of the CTC charge should be applied to all customers, including Standard Offer customers.

Staff argued no rule change is necessary and referred to its response in section 1605. Staff argued that only through divestiture of competitive services or the transfer of competitive services to an affiliate would subsidization and crossovers between monopoly and competition be prohibited. As for AEPCO's comments that the rules place limitations on Arizona utilities without similar constraints on ESPs, Staff responded that the Commission is concerned with the regulation of Arizona monopolies and subsidization of competitive services provided in this state. Staff asserted that its concern is whether the Affected Utility will use its monopoly rates from Arizona ratepayers to subsidize competitive activities. Staff believed that section 1616 is not unduly restrictive. Furthermore, Staff argued, the Commission's jurisdiction in ratemaking under its constitutional powers provides that the Commission can classify services such as generation as a competitive service in order to set just and reasonable rates.

Staff noted the CTC charge is applied to all customers, including Standard Offer customers and argued that Citizens' analysis does not take this into account.

To clarify when Affected Utilities and UDCs can provide metering and meter reading services to competitive customers, Staff proposed the following changes to section 1616(B): In the last sentence, replace "may" with "shall". After "provide" insert "if requested by an ESP or customers". Delete "." and insert "during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as two or more competitive ESPs are offering such services to a particular customer class. When two competitive ESPs are providing such services to a par-

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

ticular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the two competitive ESPs."

**Evaluation:** We concur with Staff.

**Resolution:** Modify section 1616(B) as proposed by Staff.

**R14-2-1616(A)**

**Issue:** Enron believed that the wording in 1616(A) is confusing and should be broken into subsections. Enron further believed that consumers should be entitled to credits beginning on January 1, 1999 because asset transfer or divestiture will occur at some later time and customers need to understand pricing options during the transition period related to stranded costs.

Staff believed that Enron's concerns related to customer pricing options are taken care of by the unbundled tariff requirements reflected under the rules. Staff stated that the pricing options will be clear when the utilities and the ESPs list out the unbundled cost components of providing service, which is required during the transition period and thereafter. Staff believed the language of 1616(A) is clear as written.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616(B)**

**Issue:** AEPCO would change the date in Section (B) from January 1, 1999 to January 1, 2001 to conform with Section (A) of the rule. APS claimed a conflict exists between 1606(D) and 1616(B) resulting in a gratuitous rule provision. To clarify, AEPCO requested that everything after the first sentence of 1616(B) be deleted. CellNet thought the third sentence of 1616(B) should be deleted because it is confusing.

Staff believed the rule should not be amended, pointing out that section (B) applies to the transition period that commences on January 1, 1999, and to change that date would leave the transition period in ambiguity. Staff believed that deleting the suggested portions of 1616(B) would make the rule less clear.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616(C)**

**Issue:** TEP suggested that additional language is needed to include AEPCO and its affiliates from competing in the retail electric market while utilizing the services of the distribution co-ops.

Staff stated that because AEPCO, as a generation cooperative, is required to separate its generation and other competition services from itself as an Affected Utility, under the provisions of Section (A), Staff did not believe it needed to be included in section (C). Staff noted that AEPCO does not have distribution services to which section (C) would apply.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617 - Affiliate Transactions**

**Issue:** AEPCO asserted that provisions of this rule are unworkable for customer owned cooperatives because they are somewhat small and costs will be increased rather than reduced from transferring all competitive services into a separate affiliate. AEPCO suggested striking the provisions of this rule because the Commission has exceeded its authority, or in the alternative, that the Commission consider a rule that would require both Affected Utilities and ESPs to file, prior to January 1, 2000, a plan or code of conduct that would be approved by the Commission to regulate affiliate transactions.

APS believed that the Commission should make ESPs comply with affiliate restrictions as a condition to certification. APS proposed to fix inherent problems with rule 1617 by amending 1603 to include a section (B)(8) as follows: "A proposed compliance plan, as that term is used in Rule 1617(E), demonstrating the applicant's compliance with the restrictions of Rule 1617 if the applicant is affiliated with any entity that would be classified as a Utility Distribution Company if such entity were under the Commission's jurisdiction." And a new (H)(8) as follows: "the Electric Service Provider shall comply with the provisions of R14-2-1617 if the Electric Service Provider is affiliated with any entity that would be classified as a Utility Distribution Company if such entity were under Commission jurisdiction."

ASARCO, et al. suggested that a strict code of conduct should be developed to prevent illegal interaction between generating entities and regulated entities which at a minimum should contain policies: 1) for allocating costs between non-competitive and competitive activities to avoid cross-subsidization; 2) to prevent employees providing non-competitive services from directing retail electric customers to an Affected Utility's competitive services; 3) to prevent employees from transferring proprietary information gained in the performance of noncompetitive services to employees engaged in performing competitive services without consent or retail customer; 4) to provide retail electric customers with complete and accurate disclosure of competitive and noncompetitive services; and 5) to prohibit preferential treatment when providing non-competitive services based on retail

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

customer's provider of competitive services.

TEP believed that this section should not be adopted at this time as further input from Affected Utilities is needed and an assessment should be made whether affiliate rules give competitive advantages to non-Affected Utilities. TEP suggested that, at the very least, 1617(A)(6) should contain a waiver provision upon demonstration by an Affected Utility that appropriate measures have been implemented to ensure that the utilization of common board members and corporate officers does not allow for sharing of confidential information with affiliates. Further, TEP argued the section should grandfather cost allocation arrangements which have been previously approved by the Commission.

Staff responded that no company is required to establish an affiliate, only if it wants to offer certain competitive services. Staff believed no change to the rule is necessary based on AEPCO's comments.

In response to APS's comments, Staff states that the intent of section 1617 is to ensure that incumbent Affected Utilities and their UDC do not exercise market power to the detriment of competition. Staff noted that ESPs entering the market will not have such power and therefore no change to the rule is necessary.

Staff believed that the totality of section 1617 sets the parameters to prevent this type of activity from occurring and that Codes of Conduct as recommended by ASARCO, et al. are beyond the purview of these rules.

Staff disagrees with TEP's assertion that a rule on affiliate transactions is not needed and that a rule establishing a FERC-type bulletin board is necessary. Staff noted that generation will no longer be regulated by the Commission and market forces will dictate the terms on which power is sold to parties. Finally, Staff pointed out that the Commission may grant waivers from any rule upon a showing of good cause.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** NEV suggested there may be situations where materials should properly reference coordination of generation and distribution issues between UDC and ESP, including affiliates, and recommended adding to 1617(A)(5): "... potential customer except for any issues related to the coordination of the UDC and ESP as provided for under these rules".

RUCO stated that paragraph (A)(7) requires that transfers of non-tariffed goods from an Affected Utility to an affiliate be at the higher of fully-allocated cost or market price should be amended to explicitly state that this provision applies to an Affected Utility's divestiture of its generation assets to an affiliate.

Staff believed that the existing rule provides adequate protection to prevent the leveraging that NEV references, while providing sufficient flexibility for coordination between ESPs and UDCs as necessary. Staff disagreed with RUCO's suggestion concerning 1616(A)(7), believing that 1616(A) covers these types of transactions.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617(D)**

**Issue:** The AG suggested that section 1617 should specifically require the severance of UDC functions from ESP functions.

Staff believed the nondiscrimination provisions of 1617(D) are adequate to prevent UDCs from unfairly sharing information with their affiliates to the detriment of competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617(E)**

**Issue:** Citizens requested that the Commission open a generic docket to address affiliate interest issues as they apply to all competitive utility service, whether gas, electric, telephone or water. Citizens believed section 1617(E) remains unclear on audit procedures. Since the annual performance audits are due on December 31 of each year, Citizens argued the time needs to be extended so that all pertinent data can be gathered through the end of the year.

Staff believed that a generic docket examining all affiliate issues is beyond the scope of this proceeding. Staff agreed, however, that the rule should be clarified to either require the independent audit on December 31 covering a period ending prior to December 31, or to require the audit cover the period through December 31, but be prepared after December 31.

**Evaluation:** We concur with Staff.

**Resolution:** Delete phrase at beginning of fifth sentence of 1617(E) "No later than December 31, 1999, and every year thereafter until December 31, 2002," and insert after "herein" the following phrase "starting no later than the calendar year 1999, and every year thereafter until December 31, 2002."

**R14-2-1618 - Disclosure of Information**

**Issue:** APS, Citizens, TEP, AEPCO, DVEC, GCEC and Sulphur Springs claimed that rule 1618 as a whole is burdensome,

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

costly and unnecessary. Citizens, NEV, PG&E and TEP believed that it will be difficult to obtain fuel mix information for all of the power they obtain. Most of the

Affected Utilities also believed that the Commission should delete the current rule and form a working group to undertake additional study regarding disclosure methods and requirements.

Staff responded that rule 1618(I) already includes a reference to a study group for these issues. Furthermore, Staff stated that 1618(A) recognizes that there are efforts underway to develop uniform tracking methods for determining fuel mix and emissions characteristics and that 1618(C) delegates authority to the Director of the Utilities Division to develop the format and reporting requirements for the customer information label. Staff noted that entities that believe they will be unable to comply with some or all of the rule's provisions may seek a variance. Staff believed the disclosure requirements are necessary to enable customers to receive information that can be easily compared among providers. Staff believed the existing provisions of the rules adequately address the concerns raised by the Affected Utilities and therefore, does not recommend change.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** ASARCO et al., suggested adding the words "if any" to the requirement that Load Serving Entities disclose price variability information. They noted that many contracts may be for a fixed price, whereas the rule seems to imply that variability is a given. Also, they believed that the terms of service should indicate whether service is firm or interruptible and should state which party is responsible for paying delivery related costs, such as transmission service, ancillary services, and the cost of must-run generation. AECC believed that the terms of service should make it clear whether these types of charges will be passed on to the customer.

Staff noted that these suggestions appear aimed at making the Terms of Service more helpful and informative to customers and believed that the suggestions should be adopted.

**Evaluation:** We concur.

**Resolution:** Delete provision of section 1618(B)(2) and renumber.

**Issue:** Citizens contended that distributing the disclosure label, the disclosure report, and the terms of service to any retail customer initiating service and to each retail customer on an annual basis would be costly. Citizens suggested that the Commission require Load Serving Entities to inform customers that such information is available upon request. RUCO also cautioned against establishing mandatory disclosure requirements fearing that customers may be overwhelmed with information.

Staff believed that the information required to be disclosed by R14-2-1618 will enable customers to make informed decisions in the competitive environment. Staff favors dissemination of more, rather than less information. Staff noted that UDCs should be able to include this information as a bill insert.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** NEV and PG&E recommended applying the disclosure requirements only to residential customers.

Staff noted that section 1618 excludes customers over one megawatt, and that commercial customers with relatively small loads will benefit from disclosure information.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

ANSI C12.1 (American National Standard Code for Electricity Metering (1995), incorporated in R14-2-209(E)(1).

Federal Energy Regulatory Commission Order 888 (III FERC Stats. and Regs. (31, 036 (1996), incorporated in R14-2-1606(D)(5).

**13. Was this rule previously adopted as an emergency rule?**

Yes. 4 A.A.R. 2393, September 4, 1998

**14. The full text of the rules follows:**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION**  
**FIXED UTILITIES**



**ARTICLE 2. ELECTRIC UTILITIES**

Section

- R14-2-203. Establishment of service
- R14-2-204. Minimum customer information requirements
- R14-2-208. Provision of service
- R14-2-209. Meter reading
- R14-2-210. Billing and collection
- R14-2-211. Termination of service

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

- R14-2-1601. Definitions
- R14-2-1603. Certificates of Convenience and Necessity
- R14-2-1604. Competitive Phases
- R14-2-1605. Competitive Services
- R14-2-1606. Services Required To Be Made Available by Affected Utilities
- R14-2-1607. Recovery of Stranded Cost of Affected Utilities
- R14-2-1608. System Benefits Charges
- R14-2-1609. Solar Portfolio Standard
- R14-2-1610. Transmission and Distribution Access
- R14-2-1610. Spot Markets and Independent System Operation
- R14-2-1611. In-state Reciprocity
- R14-2-1612. Rates
- R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements
- R14-2-1614. Reporting Requirements
- R14-2-1615. Administrative Requirements
- R14-2-1616. Separation of Monopoly and Competitive Services
- R14-2-1616. Legal Issues
- R14-2-1617. Affiliate Transactions
- R14-2-1618. Disclosure of Information

**ARTICLE 2. ELECTRIC UTILITIES**

**R14-2-203. Establishment of service**

- A. No change.
- B. Deposits

- 1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
  - a. The applicant has had service of a comparable nature with the utility ~~at another service location~~ within the past ~~2~~ two years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
  - b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
  - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or non-profit entity ~~an existing customer with service and acceptable to the utility~~ or a surety bond as security for the utility.
- 2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
- 3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
- 4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and

approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.

- 5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of ~~2 three or more~~ bills within a 12 consecutive month period or has been disconnected for service during the last 12 months.
- 6. The amount of a deposit required by the utility shall be determined according to the following terms:
  - a. Residential customer deposits shall not exceed ~~2~~ two times that customer's estimated average monthly bill.
  - b. Nonresidential customer deposits shall not exceed ~~2 1/2 two and one-half~~ times that customer's estimated maximum monthly bill.
- 7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
- 8. A separate deposit may be required for each meter installed.
- C. No change.
- D. Service establishments, re-establishments or reconnection charge
  - 1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services, including transfers between Electric Service Providers.
  - 2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or his service will be established on the next available normal working day.
  - 3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
  - 4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is processed 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This section shall not apply to the establishment of new service, but is limited to a change of providers of existing electric service.
- E. No change.

**R14-2-204. Minimum customer information requirements**

**A. Information for residential customers**

- 1. A utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
  - a. The monthly minimum or customer charge, identifying the amount of the charge and the specific

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

- amount of usage included in the minimum charge, where applicable.
- b. Rate blocks, where applicable.
- c. Any adjustment factor(s) and method of calculation.

- 2. The utility shall to the extent practical identify its the tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
- 3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
  - a. Deposits
  - b. Termination of service
  - c. Billing and collection
  - d. Complaint handling.
- 4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
- 5. Each utility shall inform all new customers of their right to obtain the information specified above.

**B. No change.**

**R14-2-208. Provision of Service**

**A. Utility responsibility**

- 1. Each utility shall be responsible for the safe transmission and/or distribution of electricity until it passes the point of delivery to the customer.
- 2. The entity having control of the meter Each utility shall be responsible for maintaining in safe operating condition all meters, equipment and fixtures installed on the customer's premises by the entity utility for the purposes of delivering electric utility service to the customer.
- 3. The Utility Distribution Company utility may, at its option, refuse service until the customer has obtained all required permits and/or inspections indicating that the customer's facilities comply with local construction and safety standards.

**B. No change.**

**C. No change.**

**D. No change.**

**E. No change.**

**F. No change**

**R14-2-209. Meter Reading**

**A. Company or customer meter reading**

- 1. Each utility, billing entity or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
- 2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his ~~or her~~ meter.
- 3. Where a customer reads his ~~or her~~ own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every 6 six months.
- 4. The utility, billing entity or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading, ~~to the utility.~~
- 5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.

- 6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.

- ~~6.7.~~ In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.

- 8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reading Reader Service Provider server within 3 days of the scheduled cycle read date, the Affected Utility may estimate the reads.

- ~~7.9.~~ Meters shall be read monthly on as close to the same day as practical.

**B. Measuring of service**

- 1. All energy sold to customers and all energy consumed by the utility, except that sold according to fixed charge schedules, shall be measured by commercially acceptable measuring devices ~~owned and maintained by the utility~~, except where it is impractical to install meters, such as street lighting or security lighting, or where otherwise authorized by the Commission.
- 2. When there is more than 1 one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered or metering equipment.
- 3. Meters which are not direct reading shall have the multiplier plainly marked on the meter.
- 4. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier.
- 5. Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

**C. Meter Customer requested rereads**

- 1. Each utility or Meter Reading Service Provider shall at the request of a customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity reread that customer's meter within 10 ten working days after such a request, ~~by the customer.~~
- 2. Any reread may be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity at a rate on file and approved by the Commission, provided that the original reading was not in error.
- 3. When a reading is found to be in error, the reread shall be at no charge to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity.

- D. Access to customer premises. ~~4.~~ Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with ~~the utility's~~ property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.

- E. Meter testing and maintenance program. ~~4.~~ Each utility shall file with the Commission a plan for the routine maintenance and replacement of meters which meets the requirements of the ~~1995 1988~~ edition (and no future editions) of ANSI C12.1 (American National Standard Code for Electricity Metering), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the Institute of

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.

- F. Request for Customer-requested meter tests. 1- A utility or Meter Service Provider shall test a meter upon the request of the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity request, and each utility or billing entity shall be authorized to charge the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity for such meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company or billing entity.

**R14-2-210. Billing and collection**

**A. Frequency and estimated bills**

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days without customer authorization or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.
  1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.
  2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may estimate the consumption for the billing period giving consideration the following factors where applicable:
    - a. The customer's usage during the same month of the previous year.
    - b. The amount of usage during the preceding month.
  2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to the following factors where applicable:
    - a. The customer's usage during the same month of the previous year.
    - b. The amount of usage during the preceding month.
  3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
    - a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
    - b. Failure of a customer who reads his own meter to deliver his meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
    - c. When the utility or Meter Reading Service Provider is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, that is, locked gates, blocked meters, vicious or dangerous animals, etc. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.
- d. Due to customer equipment failure, a 1-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties for Meter Service Providers as imposed by the Commission.
  - e. To facilitate timely billing for customers using load profiles.
3. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.
  4. After the 3rd consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.
  4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.
  5. A utility or billing entity may not render a bill based on estimated usage if:
    - a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
    - b. The billing would be the customer's 1st or final bill for service.
    - c. The customer is a direct access customer requiring load data.
    - d. The utility can obtain customer supplied meter readings to determine usage.
  5. Estimated bills will be issued only under the following conditions:
    - a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.
    - b. Severe weather conditions which prevent the utility from reading the meter.
    - c. Circumstances that make it dangerous or impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.
  6. When a utility or billing entity renders an estimated bill in accordance with these rules, it shall:
    - a. Maintain accurate records of the reasons therefore and efforts made to secure an actual reading.
    - b. Clearly and conspicuously indicate that it is an estimated bill and note the reason for its estimation.
  6. Each bill based on estimated usage will indicate that it is an estimated bill.
- B. Combining meters, minimum bill information
1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of 2 two or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in A.A.C. R14-2-1601.
  2. Each bill for residential service will contain the following minimum information:
    - a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

- a. Date and meter reading at the start of billing period or number of days in the billing period
  - b. The date when the bill will be considered due and the date when it will be delinquent, if not the same;
  - b. Date and meter reading at the end of the billing period
  - c. Billing usage, demand, basic monthly service charge and total amount due;
  - e. Billed usage and demand
  - d. Rate schedule number or service offer;
  - e. Customer's name and service account number;
  - e. Utility telephone number
  - f. Any previous balance;
  - f. Customer's name
  - g. Fuel adjustment cost, where applicable;
  - g. Service account number
  - h. License, occupation, gross receipts, franchise and sales taxes;
  - h. Amount due and due date
  - i. The address and telephone numbers of the Electric Service Provider, and/or the Utility Distribution Company designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered;
  - i. Past due amount
  - j. The Arizona Corporation Commission address and toll free telephone numbers;
  - j. Adjustment factor, where applicable
  - k. Other unbundled rates and charges.
  - k. Taxes
  - l. The Arizona Corporation Commission and address, thereof.
- C. Billing terms
- 1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time-frame shall be considered delinquent and could incur a late payment charge.
  - 1. All bills for utility services are due and payable no later than ten days from the date the bill is rendered. Any payment not received within this time frame shall be considered past due.
  - 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
    - a. The postmark date;
    - b. The mailing date;
    - c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than 2 days);
    - d. The transmission date for electronic bills.
  - 3. All delinquent bills shall be subject to the provisions of the utility's termination procedures.
  - 3. All past due bills for utility services are due and payable within 15 days. Any payment not received within this time frame shall be considered delinquent.
  - 4. All payments shall be made at or mailed to the office of the utility or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.
  - 4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
  - 5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
- 1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
  - 2. Each utility or billing entity shall make provisions for advance payment of utility services.
  - 3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
  - 4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum 1-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).
  - 4. Charges for utility service commence when the service is actually installed and connection made, whether used or not.
  - 5. Charges for services disconnected after 1 month shall be prorated back to the customer of record.
- E. Meter error corrections
- 1. The utility or Meter Service Provider shall test a meter upon customer or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity request and each utility or billing entity shall be authorized to charge the customer for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility or billing entity to recover or refund the difference:
    - a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.
    - b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.
  - 1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:
    - a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test.
    - b. From the date the error occurred, if the date of the cause can be definitely fixed.
  - 2. No adjustment shall be made by the utility except to the customer last served by the meter tested.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to 3 months for residential customers and 6 months for non-residential customers. However, if an underbilling by the utility occurs due to inaccurate, false or estimated information from a 3rd party, then that utility will have a right to back bill that 3rd party to the point in time that may be definitely fixed, or 12 months. No such limitation will apply to overbillings.
- F. Insufficient funds (NSF) or returned checks:
1. A utility or billing entity shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for electric service with a check or other financial instrument which is returned by the customer's bank or other financial institution.
  1. ~~A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.~~
  2. When the utility or billing entity is notified by the customer's bank or other financial institution that the check or financial instrument tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.
  2. ~~When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.~~
  3. A customer who tenders such a check or financial instrument shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.
  3. ~~A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.~~
- G. Levelized billing plan
1. Each utility may, at its option, offer its residential customers a levelized billing plan.
  2. Each utility offering a levelized billing plan shall develop, upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
    - a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
    - b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
    - c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
  3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
- H. Deferred payment plan
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
  2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:
    - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
    - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
    - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed 6 six months.
  3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
    - a. Size of the delinquent account
    - b. Customer's ability to pay
    - c. Customer's payment history
    - d. Length of time that the debt has been outstanding
    - e. Circumstances which resulted in the debt being outstanding
    - f. Any other relevant factors related to the circumstances of the customer.
  4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.
  4. ~~Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for non-payment.~~
  5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules, and, Under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

**I. Change of occupancy**

1. To order service discontinued or to change occupancy, the customer must give the utility at least 3 working days advance notice in person, in writing, or by telephone.
1. ~~Not less than three working days advance notice must be given in person, in writing, or by telephone at the company's office to discontinue service or to change occupancy.~~
2. The outgoing customer party shall be responsible for all utility services provided and/or consumed up to the scheduled turnoff date.
3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

**R14-2-211. Termination of service**

**A. Nonpermissible reasons to disconnect service**

1. A utility may not disconnect service for any of the reasons stated below:
  - a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
  - b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
  - c. Nonpayment of a bill related to another class of service.
  - d. Failure to pay for a bill to correct a previous under-billing due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
  - e. A utility shall not terminate residential service where the customer has an inability to pay and:
    - i. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer's or a permanent resident residing on the customer's premises health, or
    - ii. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
    - iii. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
  - f. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
    - i. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
    - ii. A 3rd third party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.

- g. A customer utilizing the provisions of d.e. or e.f. above may be required to enter into a deferred payment agreement with the utility within ten days after the scheduled termination date.

~~h. Failure to pay the bill of another customer as guarantor thereof.~~

- ~~h.~~ Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.

**B. Termination of service without notice**

1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. Utility service may be disconnected without advance written notice under the following conditions:
  - a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
  - b. The utility has evidence of meter tampering or fraud.
  - c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of 1 one year and shall be available for inspection by the Commission.

**C. Termination of service with notice**

1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
  - a. Customer violation of any of the utility's tariffs.
  - b. Failure of the customer to pay a delinquent bill for utility service.
  - c. Failure to meet or maintain the utility's deposit requirements.
  - d. Failure of the customer to provide the utility reasonable access to its equipment and property.
  - e. Customer breach of a written contract for service between the utility and customer.
  - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for 1 one year and be available for Commission inspection.

**D. No change.**

**E. No change.**

**F. No change.**

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**R14-2-1601. Definitions**

In this Article, unless the context otherwise requires:

1. No change.
2. "Aggregator" means an Electric Service Provider that combines retail electric customers into a purchasing group.



*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

- 2-3. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
- 3-4. "Buy-through" refers to a purchase of electricity by a Load-Serving Entity an Affected Utility at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.
5. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs from the customers of competitive services.
6. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "noncompetitive services" pursuant to R14-2-1601(29).
7. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
8. "Consumer Information" is impartial information provided to consumers about competition or competitive and noncompetitive services and is distinct from advertising and marketing.
9. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
10. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider or the customer.
11. "Delinquent Accounts" means customer accounts with outstanding past due payment obligations that remain unpaid after the due date.
12. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
- 4-13. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein, meters and meter-reading.
14. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
- 5-15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any of the competitive services described in R14-2-1605 or R14-2-1606, pursuant to a Certificate of Convenience and Necessity.
6. "Eligible Demand" means the total consumer kilowatts of demand which an Affected Utility must make available to competitive generation under the terms of this Article or the consumer kilowatts of demand provided competitively in an Affected Utility's distribution territory, whichever is greater.
16. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
17. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
18. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for solar-generated electricity.
19. "Independent Scheduling Administrator" (ISA) is a proposed entity, independent of transmission owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
20. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
21. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
22. "Load-Serving Entity" means an Electric Service Provider, Affected Utility or Utility Distribution Company, excluding a Meter Reading Service Provider, Meter Reading Service Provider or Aggregators.
23. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
24. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.
25. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
26. "Metering and Metering Service" means all functions related to measuring electricity consumption.
27. "Must-Run Generating Units" are those units that are required to run to maintain distribution system reliability and meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
28. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.
29. "Noncompetitive Services" means distribution service, Standard Offer service, transmission and Federal Energy Regulatory Commission-required ancillary services, and those aspects of metering service set forth in R14-2-1613.K. All components of Standard Offer service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).



*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

30. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.
31. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
32. "Potential Transformer" (PT) is an electrical device used to step down primary voltages to 120V for metering purposes.
33. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certificated area who are not buying competitive services.
34. "Retail Electric Customer" means the person or entity in whose name service is rendered.
35. "Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Independent Scheduling Administrator or Independent System Operator.
36. "Self-Aggregation" is the action of a retail electric customer that combines its own metered loads into a single purchase block.
37. "Solar Electric Fund" is the funding mechanism established by this Article through which deficiency payments are collected and solar energy projects are funded in accordance with this Article.
- 7-38. "Standard Offer" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory in a designated area at regulated rates including metering, meter reading, billing, collection services and other consumer information services.
- 8-39. "Stranded Cost" includes: means the
- a. The verifiable net difference between:
    - a.i. The value of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to December 26, 1996, the adoption of this Article, under traditional regulation of Affected Utilities; and
    - b.ii. The market value of those assets and obligations directly attributable to the introduction of competition under this Article;
  - b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;
  - c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided.
- 9-40. "System Benefits" means Commission-approved utility low income, demand side management, market transformation, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs.
41. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
42. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.
- 10-43. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, metering, meter reading, billing and collection and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.
44. "Utility Distribution Company" (UDC) means the electric utility entity that constructs and maintains the distribution system for the delivery of power to the end user.
45. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.
46. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.
- R14-2-1603. Certificates of Convenience and Necessity**
- A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R-14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article; however, A a Certificate is not required to offer information services, or billing and collection services, or self-aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of Convenience and Necessity and Self-Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6). An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. An Affected Utility providing distribution and Standard Offer service after January 1, 2001, need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1616(A) shall be required to apply for appropriate Certificates of Convenience and Necessity. An Affected Utility does not need to apply for a Certificate of Convenience and Necessity for any service provided as of the date of adoption of this Article within its distribution service territory.
- B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. Such Certificates shall be restricted to geographical areas served by the Affected Utilities as of the date this Article is adopted and to service areas added under the provisions of R14-2-1611. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:
1. A description of the electric services which the applicant intends to offer;
  2. The proper name and correct address of the applicant, and
    - a. The full name of the owner if a sole proprietorship,
    - b. The full name of each partner if a partnership,
    - c. A full list of officers and directors if a corporation, or
    - d. A full list of the members if a limited liability corporation;

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
  4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and provide any other proposed services;
  5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
  6. A description of the form of ownership (for example, partnership, corporation);
  7. Such other information as the Commission or the staff may request.
- C.** The applicant shall report in a timely manner during the application process any change in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.
- D.** The applicant shall provide public notice of the application as required by the Commission.
- ~~C.E.~~** At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by serving notification a complete copy of the application on the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. Prior to Commission action, each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.
- F.** The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.
- ~~D.G.~~** The Commission may deny certification to any applicant who:
1. Does not provide the information required by this Article;
  2. Does not possess adequate technical or financial capabilities to provide the proposed services;
  3. Does not have Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
  - ~~3-4.~~ Fails to provide a performance bond, if required;
  5. Fails to demonstrate that its certification will serve the public interest;
  6. Fails to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division prior to the offering of service to potential customers.
- H.** A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to service acquisition agreements Affected Utilities or their successor entities are required to negotiate in good faith.
- ~~E.I.~~** Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service and relevant to resource planning;
  2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
  3. The Electric Service Provider shall file with the Director, ~~of the~~ Utilities Division all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
  4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
  5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
  6. The Electric Service Provider shall obtain all necessary permits and licenses; including relevant tax licenses.
  7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1618;
  - ~~7-8.~~ Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.
- ~~F.J.~~** In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.
- R14-2-1604. Competitive Phases**
- A.** Each Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. First-come, first-served, for the purpose of this rule, shall be determined for non-residential customers by the date and time of an Electric Service Provider's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 180 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4. to all customer classes (including residential and small commercial consumers) not later than January 1, 1999. If data permit, coincident annual peak demand shall be used; otherwise noncoincident peak data may be used.
1. All Affected Utility customers with non-coincident peak demand load of 1 MW or greater will be eligible for competitive electric services no later than January 1, 1999. Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.
  - ~~1.~~ No more than (of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW;
  - ~~2.~~ At least 15% of the Eligible Demand shall be reserved for residential consumers;
  - ~~3.~~ Aggregation of loads of multiple consumers shall be permitted.
- ~~B.~~** Each Affected Utility shall make available at least 50% of its 1995 system retail peak demand for competitive generation supply to all customer classes (including residential and small commercial consumers) not later than January 1, 2001.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

If data permit, coincident peak annual demand shall be used; otherwise noncoincident peak data may be used:

1. No more than (of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW.
  2. During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated into a combined load of 1 MW or greater within the Affected Utility's service territory will be eligible for competitive electric services. Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule. If peak load data are not available, the 40 kW criterion shall be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive months. From January 1, 1999, through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 system peak demand is served by competitors. At that point all additional aggregated customers must wait until January 1, 2001 to obtain competitive service.
  2. At least 30% of the Eligible Demand shall be reserved for residential consumers.
  3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than October 31, 1998.
  3. Aggregation of loads of multiple consumers shall be permitted.
- B.** As part of the minimum 20% of 1995 system peak demand set forth in R14-2-1604(A), each Affected Utility shall reserve a residential phase-in program with the following components:
1. A minimum of 1+ % of residential customers as of January 1, 1999, will have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional 1+ % every quarter until January 1, 2001.
  2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program.
  3. Residential customers participating in the residential phase-in program shall be permitted to use load profiling to satisfy the requirements for hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.
  4. Each Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division by September 15, 1998. Interested parties will have until September 29, 1998, to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:
    - a. Process for customer notification of residential phase-in program;
    - b. Selection and tracking mechanism for customers based on first-come, first-served method;
    - c. Customer notification process and other education and information services to be offered;
    - d. Load Profiling methodology and actual load profiles, if available; and
    - e. Method for calculation of reserved load.
5. Each Affected Utility shall file quarterly residential phase-in program reports within 45 days of the end of each quarter. The 1st such report shall be due within 45 days of the quarter ending March 31, 1999. The final report due under this rule shall be due within 45 days of the quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:
    - a. The number of customers and the load currently enrolled in residential phase-in program by energy service provider;
    - b. The number of customers currently on the waiting list;
    - c. A description and examples of all customer education programs and other information services including the goals of the education program and a discussion of the effectiveness of the programs; and
    - d. An overview of comments and survey results from participating residential customers.
- C.** Each Affected Utility shall file a report by September 15, 1998, detailing possible mechanisms to provide benefits, such as rate reductions of 3% - 5%, to all Standard Offer customers.
- C.** Prior to 2001, no single consumer shall receive more than 20% of the Eligible Demand in a given year in an Affected Utility's service territory.
- D.** All customers shall be eligible to obtain competitive electric services no later than January 1, 2001, at which time all customers shall be permitted to aggregate, including aggregation across service territories.
- D.** Each Affected Utility shall make available all of its retail demand for competitive generation supply not later than January 1, 2003.
- E.** By the date indicated in R14-2-1602, Affected Utilities shall propose for Commission review and approval how customers will be selected for participation in the competitive market prior to 2003.
1. Possible selection methods are 1st-come, 1st-served; random selection via a lottery among volunteering consumers; or designation of geographic areas.
  2. The method for selecting customers to participate in the competitive market must fairly allow participation by a wide variety of customers of all sizes of loads.
- E.** 3. Subject to the minimum 20% limitation described in subsection (A) of this Section, all AH customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal electric resources installed in Arizona after January 1, 1997 shall be selected for participation in the competitive market if those customers apply for participation in the competitive market. Such participants count toward the minimum requirements in R14-2-1604 (A) and R14-2-1604 (B).
4. The Commission staff shall commence a series of workshops on selection issues within 45 days of the adoption of this Article and staff shall submit a report to the Commission discussing the activities and recommendations of participants in the workshops. The report shall be due not later than 90 days prior to the date indicated in R14-2-1602.
- F.** No change.
- G.** An Affected Utility A Load-Serving Entity may, beginning January 1, 1999, engage in buy-throughs with individual or aggregated consumers. Any buy-through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy-through

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

effective prior to January 1, 1999, the date indicated in R14-2-1604(A) must be approved by the Commission.

**H. Schedule Modifications for Cooperatives**

1. An electric cooperative may request that the Commission modify the schedule described in R14-2-1604(A) through R14-2-1604(E)(D) so as to preserve the tax exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

**R14-2-1605. Competitive Services**

A properly certificated Electric Service Provider may offer any of the following services under bilateral or multilateral contracts with retail consumers:

- A. No change.
- B. Any service described in R14-2-1606, except Noncompetitive services as defined by R14-2-1601.29 or Noncompetitive services as defined Distribution Service and except services required by the Federal Energy Regulatory Commission to be monopoly services. Billing and collection services, and information services, and self-aggregation services do not require a Certificate of Convenience and Necessity. Aggregation of retail electric customers into a purchasing group is considered to be a competitive service.

**R14-2-1606. Services Required To Be Made Available by Affected Utilities**

- A. Until the Commission determines that competition has been substantially implemented for a particular class of consumers (residential, commercial, industrial) so that all consumers in that class have an opportunity to participate in the competitive market, and until all Stranded Costs pertaining to that class of customers have been recovered, each Each Affected Utility shall make available to all consumers in that class in its service area, as defined on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates. After January 1, 2001, Standard Offer service shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.
  1. An Affected Utility may request that the Commission determine that competition has been substantially implemented to allow discontinuation of Standard Offer service and shall provide sufficient documentation to support its request.
  2. The Commission may, on its own motion, investigate whether competition has been substantially implemented and whether Standard Offer service may be discontinued.
- B. After January 1, 2001, power purchased by a Utility Distribution Company to serve Standard Offer customers, except purchases made through spot markets, shall be acquired through competitive bid. Any resulting contract in excess of 12 months shall contain provisions allowing the Utility Distribution Company to ratchet down its power purchases. A Utility Distribution Company may request that the Commission modify any provision of this subsection for good cause.

**B.C. Standard Offer Tariffs**

1. By the date indicated in R14-2-1602, each Affected Utility may file proposed tariffs to provide Standard

Offer Bundled Service and such rates shall not become effective until approved by the Commission. If no such tariffs are filed, rates and services in existence as of the date in R14-2-1602 shall constitute the Standard Offer.

2. Affected Utilities may file proposed revisions to such rates. It is the expectation of the Commission that the rates for Standard Offer service will not increase, relative to existing rates, as a result of allowing competition. Any rate increase proposed by an Affected Utility for Standard Offer service must be fully justified through a rate case proceeding.
3. Such rates shall reflect the costs of providing the service.
4. Consumers receiving Standard Offer service are eligible for potential future rate reductions authorized by the Commission, such as reductions authorized in Decision No. 59601.

**C.D.** By the date indicated in R14-2-1602, each Affected Utility shall file Unbundled Service tariffs to provide the services listed below to the extent allowed by these rules to all eligible purchasers on a nondiscriminatory basis. Other entities seeking to provide any of these services must also file tariffs consistent with these rules:

1. Distribution Service;
2. Metering and Meter Reading Services ~~meter-reading services~~;
3. Billing and collection services;
4. Open access transmission service (as approved by the Federal Energy Regulatory Commission, if applicable);
5. Ancillary services in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. paragraph 31,036, 1996) incorporated herein by reference;
6. Information services such as provision of customer information to other Electric Service Providers;
7. Other ancillary services necessary for safe and reliable system operation.

**D.E.** To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

**E.F.** The Affected Utilities must provide transmission and ancillary services according to the following guidelines:

1. Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission.
2. Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their transmission systems by others and offer transmission and related services comparable to services they provide to themselves.

**F.G. Customer Data**

1. Upon written authorization by the customer, a an Load-Serving Entity Electric Service Provider shall release in a timely and useful manner that customer's demand and energy data for the most recent 12-month period to a customer-specified Electric Service Provider.
2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for cus-

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

tomers served by the Utility Distribution Company's distribution system.

**G.H.** Rates for Unbundled Services

1. The Commission shall review and approve rates for services listed in R14-2-1606(D)(C) and requirements listed in R14-2-1606(E)(D), where it has jurisdiction, before such services can be offered.
2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

**H.I.** Electric Service Providers offering services under this R14-2-1606 shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided to this Commission.

**I.** Within 90 days of the adoption of this Article, the Commission staff shall commence a series of workshops to explore issues in the provision of Unbundled Service and Standard Offer service.

1. Parties to be invited to participate in the workshops shall include utilities, consumers, organizations promoting energy efficiency, and other Electric Service Providers.
2. Among the issues to be reviewed in the workshops are: metering requirements; metering protocols; designation of appropriate test years; the nature of adjustments to test year data; de-averaging of rates; service characteristics such as voltage levels; revenue uncertainty; line extension policies; and the need for performance bonds.
3. A report shall be submitted to the Commission by the staff on the activities and recommendations of the participants in the workshops not later than 60 days prior to the date indicated in R14-2-1602. The Commission shall consider any recommendations regarding Unbundled Service and Standard Offer service tariffs.

**R14-2-1607. Recovery of Stranded Cost of Affected Utilities**

- A. The Affected Utilities shall take every reasonable feasible, cost-effective measure to mitigate or offset Stranded Cost by means such as expanding wholesale or retail markets, or offering a wider scope of services for profit, among others.
- B. The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities.

**G.C.** The Affected Utilities shall file estimates of unmitigated Stranded Cost. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.

**G.** A working group to develop recommendations for the analysis and recovery of Stranded Cost shall be established.

1. The working group shall commence activities within 15 days of the date of adoption of this Article.
2. Members of the working group shall include representatives of staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.
3. The working group shall be coordinated by the Director of the Utilities Division of the Commission or by his or her designee.

**H.D.** An Affected Utility shall request Commission approval, on or before August 21, 1998, of distribution charges or other means of recovering unmitigated Stranded Cost from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed by this Article,

or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article.

**D.** In developing its recommendations, the working group shall consider at least the following factors:

1. The impact of Stranded Cost recovery on the effectiveness of competition;
2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
6. The degree to which some assets have values in excess of their book values;
7. Appropriate treatment of negative Stranded Cost;
8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
9. The ease of determining the amount of Stranded Cost;
10. The applicability of Stranded Cost to interruptible customers;
11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.

**I.E.** The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:

1. The impact of Stranded Cost recovery on the effectiveness of competition;
2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
6. The degree to which some assets have values in excess of their book values;
7. Appropriate treatment of negative Stranded Cost;
8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
9. The ease of determining the amount of Stranded Cost;
10. The applicability of Stranded Cost to interruptible customers;
11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.

**E.** The working group shall submit to the Commission a report on the activities and recommendations of the working group no later than 90 days prior to the date indicated in R14-2-1602.

**J.F.** A Competitive Transition Charge (CTC) may be assessed only Stranded Cost may only be recovered from on customer purchases made in the competitive market using the provisions of this Article. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attrib-

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

utable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.

**F.** ~~The Commission shall consider the recommendations and decide what actions, if any, to take based on the recommendations.~~

**G.** Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates.

**K-H.** ~~The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.~~

**L-I.** ~~The Commission may order regular revisions to estimates of the magnitude of Stranded Cost.~~

**R14-2-1608. System Benefits Charges**

**A.** By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Companies' service area who participate in the competitive market. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge every 3 years. In addition, the Affected Utility may file for a change in the System Benefits charge at any time. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' present Commission-approved low income, demand side management, market transformation, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time to time. Now, the Commission will approve a solar water heater rebate program: \$200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$1 million in 2003; the rebate will not be more than \$500 per system for Commission staff-approved solar water heaters. After 2003, future Commissions may review this program for efficacy.

**B.** Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.

**C.** An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

**D.** ~~Methods of calculating System Benefits charges shall be included in the workshops described in R14-2-1606 (I).~~

**R14-2-1609. Solar Portfolio Standard**

**A.** Starting on January 1, 1999, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least .2% of the total retail energy sold competitively from new solar energy resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.

**A.** ~~Starting on January 1, 1999, any Electric Service Provider selling electricity under the provisions of this Article must derive at least (of 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.~~

**B.** Starting January 1 of each year from 2000 through 2003, the solar resource requirement shall increase by .2% with the result that starting January 1, 2003, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least 1.0% of the total retail energy sold competitively from new solar energy resources. The 1.0% requirement shall be in effect from January 1, 2003 through December 31, 2012.

**B.** ~~Solar portfolio standard after December 31, 2001:~~

**1.** ~~Starting on January 1, 2002, any Electric Service Provider selling electricity under the provisions of this Article must derive at least 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.~~

**2.** ~~The Commission may change the solar portfolio percentage applicable after December 31, 2001, taking into account, among other factors, the costs of producing solar electricity and the costs of fossil fuel for conventional power plants.~~

**C.** The solar portfolio requirement shall only apply to competitive retail electricity in the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.

**C.D.** Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the solar portfolio standard requirements: Any Electric Service Provider certificated under the provisions of this Article shall be able to credit 2 times the electric energy it generated, or caused to be generated under contract, before January 1, 1999 using photovoltaics or solar thermal resources installed on or after January 1, 1997 in Arizona to the electric energy requirements of R14-2-1609(A) or (B).

**1.** Early Installation Extra Credit Multiplier: For new solar electric systems installed and operating prior to December 31, 2003, Electric Service Providers would qualify for multiple extra credits for kWh produced for 5 years following operational start-up of the solar electric system. The 5-year extra credit would vary depending upon the year in which the system started up, as follows:

YEAR	EXTRA CREDIT MULTIPLIER
1997	.5
1998	.5
1999	.5
2000	.4
2001	.3
2002	.2
2003	.1

The Early Installation Extra Credit Multiplier would end in 2003.

**2.** Solar Economic Development Extra Credit Multipliers: There are 2 equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.



**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

- a. In-State Power Plant Installation Extra Credit Multiplier: Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.
- b. In-State Manufacturing and Installation Content Extra Credit Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).
3. Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier: Any distributed solar electric generator that meets more than 1 of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.
- a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Electric Service Providers to claim an extra credit multiplier, the Electric Service Provider must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.
- b. Solar electric generators located in Arizona that are included in any Electric Service Provider's Green Pricing program.
- c. Solar electric generators located in Arizona that are included in any Electric Service Provider's Net Metering or Net Billing program.
- d. Solar electric generators located in Arizona that are included in any Electric Service Provider's solar leasing program.
- e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.
4. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if an Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra credit).
- D.E.** No change.
- E.F.** If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall may impose a penalty requirement on that Electric Service Provider that the Electric Service Provider pay an amount equal up to 30¢ per kWh to the Solar Electric Fund for deficiencies in the provision of solar electricity energy. This Solar Electric Fund will be established and utilized to purchase solar electric generators or solar electricity in the following calendar year for the use by public entities in Arizona such as schools, cities, counties, or state agencies. Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. In addition, if the provision of solar energy is consistently deficient, the Commission may void an Electric Service Provider's contracts negotiated under this Article.
1. The Director, Utilities Division shall establish a Solar Electric Fund in 1999 to receive deficiency payments and finance solar electricity projects.
2. The Director, Utilities Division shall select an independent administrator for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar Electric Fund shall be used for administration of the Fund and a designated portion of the Fund will be set aside for ongoing operation and maintenance of projects financed by the Fund.
- F.G.** Photovoltaic or solar thermal electric resources that are located on the consumer's premises shall count toward the solar portfolio standard applicable to the current Electric Service Provider serving that consumer.
- G.H.** Any solar electric generators installed by an Affected Utility to meet the solar portfolio standard shall be counted toward meeting described in this section in addition to renewable resource goals for Affected Utilities established in Decision No. 58643.
- I.** Any Electric Service Provider or independent solar electric generator that produces or purchases any solar kWh in excess of its annual portfolio requirements may save or bank those excess solar kWh for use or sale in future years. Any eligible solar kWh produced subject to this rule may be sold or traded to any Electric Service Provider that is subject to this rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Electric Service Provider that is using the purchased kWh to meet its portfolio requirements.
- J.** Solar portfolio standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.
- K.** An Electric Service Provider shall be entitled to receive a partial credit against the solar portfolio requirement if the Electric Service Provider or its affiliate owns or makes a significant investment in any solar electric manufacturing plant that is located in Arizona. The credit will be equal to the amount of the nameplate capacity of the solar electric generators produced in Arizona and sold in a calendar year times 2,190 hours (approximating a 25% capacity factor).
1. The credit against the portfolio requirement shall be limited to the following percentages of the total portfolio requirement:
- |             |   |
|-------------|---|
| 1999        | Maximum of 50% of the portfolio requirement |
| 2000        | Maximum of 50% of the portfolio requirement |
| 2001        | Maximum of 25% of the portfolio requirement |
| 2002        | Maximum of 25% of the portfolio requirement |
| 2003 and on | Maximum of 20% of the portfolio requirement |
2. No extra credit multipliers will be allowed for this credit. In order to avoid double-counting of the same equipment, solar electric generators that are used by other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.



*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

- L. The Director, Utilities Division shall develop appropriate safety, durability, reliability, and performance standards necessary for solar generating equipment to qualify for the solar portfolio standard. Standards requirements will apply only to facilities constructed or acquired after the standards are publicly issued.

**R14-2-1610. Transmission and Distribution Access Spot Markets and Independent System Operation**

- A. The Affected Utilities shall provide non-discriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.
- A. The Commission shall conduct an inquiry into spot market development and independent system operation for the transmission system.
- B. The Commission supports the development of an Independent System Operator (ISO) or, absent an Independent System Operator, an Independent Scheduling Administrator (ISA).
- B. The Commission may support development of a spot market or independent system operator or operators for the transmission system.
- C. The Commission believes that an Independent Scheduling Administrator is necessary in order to provide non-discriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall file with the Federal Energy Regulatory Commission by October 31, 1998, for approval of an Independent Scheduling Administrator having the following characteristics:
- C. The Commission may work with other entities to help establish spot markets and independent system operators.
1. The Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants, and shall develop and operate an overarching statewide OASIS.
  2. The Independent Scheduling Administrator shall implement and oversee the non-discriminatory application of protocols to ensure statewide consistency for transmission access. These protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, and Must-Run Generating Units.
  3. The Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use and curtailment of transmission services.
  4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants shall be made to, or through, the Independent Scheduling Administrator using a single, standardized procedure.

- D. The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Independent Scheduling Administrator implementation plan with the Commission by September 1, 1998. The implementation plan shall address Independent Scheduling Administrator governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the Independent Scheduling Administrator; the schedule for the phased development of Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place by January 1, 1999; and any other significant issues related to the timely and successful implementation of the Independent Scheduling Administrator.
- E. Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Independent Scheduling Administrator should transfer its relevant assets and functions as the Independent System Operator becomes able to carry out those functions.
- F. It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a non-discriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and the Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.
- G. The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator, at which time the schedules will be submitted to the Independent System Operator. The primary duties of Scheduling Coordinators are to:
1. Forecast their customers' load requirements;
  2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission losses) and North American Electric Reliability Council/Western Systems Coordinating Council tags;
  3. Arrange for the acquisition of the necessary transmission and ancillary services;
  4. Respond to contingencies and curtailments as directed by the Control Area Operators, Independent Scheduling Administrator or Independent System Operator;
  5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Independent Scheduling Administrator or Independent System Operator.
- H. The Affected Utilities shall provide services from the Must-Run Generating Units to Standard Offer retail customers and competitive retail customers on a comparable, non-discriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Electric System Reliability and Safety Work-

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

ing Group, the Affected Utilities shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units with input from other stakeholders. These protocols shall be presented to the Commission for review and filed with the Federal Energy Regulatory Commission, if necessary, by October 31, 1998.

**R14-2-1611. In-state In-State Reciprocity**

- A. No change.
- B. No change.
- C. No change.
- D. If an electric utility is an Arizona political subdivision or municipal corporation, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.
- E. An affiliate of an Arizona electric utility which is not an Affected Utility shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the non-affected electric utility, submits a statement to the Commission indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

**R14-2-1612. Rates**

- A. No change.
- B. No change.
- C. Prior to the date indicated in R14-2-1604(D), competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is 1 year or more and for service of 1 MW or more must be filed with the Director, of the Utilities Division as soon as practicable. If a contract does not comply with the provisions of this Article and the Affected Utility's or Electric Service Provider's approved tariffs, it shall not become effective without a Commission order. Such contracts shall be kept confidential by the Commission.
- D. Contracts entered into on or after the date indicated in R14-2-1604(D) which comply with approved tariffs need not be filed with the Director, of the Utilities Division. If a contract does not comply with the provisions of this Article and the Affected Utility's or the Electric Service Provider's approved tariffs it shall not become effective without a Commission order.
- E. No change.
- F. No change.

**R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements**

- A. Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212. R14-2-203(E) and R14-2-212 (G)(2) shall pertain only to Affected Utilities. R14-2-212 (G)(4) shall apply only to Affected Utilities. R14-2-212(H) shall pertain only to Utility Distribution

Companies Electric Service Providers who provide distribution service.

- B. The following shall not apply to this Article:
  - 1. R14-2-202 in its entirety,
  - 2. R14-2-206 in its entirety,
  - 3. R14-2-207 in its entirety,
  - 2-4. R14-2-212 (F)(1),
  - 3-5. R14-2-213,
  - 6. R14-2-208(E) and (F).
- C. No consumer shall be deemed to have changed providers suppliers of any service authorized in this Article (including changes from supply by the Affected Utility to another provider supplier) without written authorization by the consumer for service from the new provider supplier. If a consumer is switched (or slammed) to a different ("new") provider supplier without such written authorization, the new provider supplier shall cause service by the previous provider supplier to be resumed and the new provider supplier shall bear all costs associated with switching the consumer back to the previous provider supplier. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate.
- D. A customer with an annual load of 100,000 kWh or less may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider.
- D-E. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages, and also provide notification to the Commission.
- E-F. Each Electric Service Provider shall provide at least 45 30 days notice to all of its affected consumers of its intent to cease providing if it is no longer obtaining generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- F-G. No change.
- G-H. No change.
- H-I. Electric Service Providers shall give at least 5 days notice to their customer and to the appropriate Utility Distribution Company of scheduled return to the Standard Offer, but that return of that customer to the Standard Offer would be at the next regular billing cycle. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.
- I-J. Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and the toll free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division and the telephone number of the Consumer Services Section of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

billing and collections services rendered on its behalf comply with R14-2-1613(A) and (B).

**J.K. Additional Provisions for Metering and Meter Reading Services**

1. An Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide access using EDI formats to meter reading data readings to other Electric Service Providers serving that same consumer when authorized by the consumer.
2. Any person or entity A consumer or an Electric Service Provider relying on metering information provided by another Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
3. Each competitive customer shall be assigned a Universal Node Identifier for each service delivery point by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
3. Protocols for metering shall be developed subsequent to the workshops described in R14-2-1606(I).
4. All competitive metered and billing data shall be translated into consistent, statewide Electronic Data Interchange (EDI) formats based on standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
5. An Electronic Data Interchange Format shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems.
7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less, will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data.
8. Meter ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or their representative, or the customer, who obtains the meter from the Affected Utility, or Utility Distribution Company or an Electric Service Provider.
9. Maintenance and servicing of the metering equipment will be limited to the Affected Utility, Utility Distribution Company and the Electric Service Provider or their representative.
10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company or the Electric Service Provider or their representative.
11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
12. North American Electric Reliability Council recognized holidays will be used in calculating "working days" for meter data timeliness requirements.
13. The operating procedures approved by the Director, Utilities Division will be used by the Utility Distribution

Companies and the Meter Service Providers for performing work on primary metered customers.

14. The rules approved by the Director, Utilities Division will be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
15. The performance metering specifications and standards approved by the Director, Utilities Division will be used by all entities performing metering.

**K.L. Working Group on System Reliability and Safety**

1. If it has not already done so, the The Commission shall establish, by separate order, a working group to monitor and review system reliability and safety.
  - a. The working group may establish technical advisory panels to assist it.
  - e.b. Members of the working group shall include representatives of staff, consumers, the Residential Utility Consumer Office, utilities, other Electric Service Providers and organizations promoting energy efficiency. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.
  - b. The working group shall commence activities within 15 days of the date of adoption of this Article.
  - d.c. The working group shall be coordinated by the Director, of the Utilities Division of the Commission or by the Director's his or her designee.
2. All Electric Service Providers governed by this Article shall cooperate and participate in any investigation conducted by the working group, including provision of data reasonably related to system reliability or safety.
3. The working group shall report to the Commission on system reliability and safety regularly, and shall make recommendations to the Commission regarding improvements to reliability or safety.

**L.M. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.**

**M.N. Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.**

**N.O. Unbundled Billing Elements. All customer bills after January 1, 1999, will list, at a minimum, the following billing cost elements:**

1. Electricity Costs:
  - a. Generation.
  - b. Competition Transition Charge, and
  - c. Fuel or purchased power adjustor, if applicable
2. Delivery Costs:
  - a. Distribution services.
  - b. Transmission services, and
  - c. Ancillary services
3. Other Costs:
  - a. Metering Service.
  - b. Meter Reading Service.
  - c. Billing and collection, and
  - d. System Benefits charge

**O.P. The operating procedures approved by the Director, Utilities Division will be used for Direct Access Service Requests as well as other billing and collection transactions.**

**R14-2-1614. Reporting Requirements**

- A. Reports covering the following items, as applicable, shall be submitted to the Director, of the Utilities Division by

**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, Unbundled Services, and Standard Offer services in Arizona:

1. Type of services offered;
2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);
3. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off-grid solar resources;
4. Revenues from sales by customer class (for example, residential, commercial, industrial);
5. Number of retail customers disaggregated as follows: aggregators, residential, commercial under 40 kW, commercial 41 to 999 kW, 1000 kW, commercial 1000 kW to 2999 kW, commercial 1000 3000 kW or more, industrial less than 1000 3000 kW, industrial 1000 3000 kW or more, agricultural (if not included in commercial), and other;
6. Retail kWh sales and revenues disaggregated by term of the contract (less than 1 year, 1 to 4 years, longer than 4 years), and by type of service (for example, firm, interruptible, other);
7. Amount of and revenues from each service provided under R14-2-1605, and, if applicable, R14-2-1606;
8. Value of all Arizona-specific assets used to serve Arizona customers and accumulated depreciation;
9. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
10. The number of customers aggregated and the amount of aggregated load;
- 10-11. Other data requested by staff or the Commission;
- 11-12. In addition, prior to the date indicated in R14-2-1604(D), Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.

- B. No change.  
C. No change.  
D. No change.  
E. No change.  
F. No change.  
G. No change.

**R14-2-1615. Administrative Requirements**

- A. Any Electric Service Provider certificated under this Article may file proposed proposed additional tariffs for electric services at any time by filing a proposed tariff with the Commission describing which include a description of the service, maximum rates, terms and conditions. The proposed new electrical service may not be provided until the Commission has approved the tariff.
- B. No change.  
C. No change.  
D. No change.

**R14-2-1616. Separation of Monopoly and Competitive Services**

- A. All competitive generation assets and competitive services shall be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected Utility chooses to transfer its competitive generation assets or

competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.

- B. Beginning January 1, 1999, an Affected Utility or Utility Distribution Company shall not provide competitive services as defined herein, except as otherwise authorized by these rules or by the Commission. However, this rule does not preclude an Affected Utility's or Utility Distribution Company's affiliate from providing competitive services. Nor does this rule preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing or from providing meters for Load Profiled residential customers. Nor does this rule require an Affected Utility or Utility Distribution Company to separate such assets or services utilized in these circumstances. Affected Utilities and Utility Distribution Companies shall provide, if requested by an Electric Service Provider or customer, metering, meter reading, billing, and collection services within their service territories at tariffed rates to customers that do not have access to these services during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as 2 or more competitive Electric Service Providers are offering such services to a particular customer class. When 2 competitive Electric Service Providers are providing such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer the service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the 2 competitive Electric Service Providers.
- C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1616 except if it offers competitive electric services outside of the service territory it had as of the effective date of these rules.
- D. To meet the solar portfolio requirement in R14-2-1609, the Utility Distribution Company may purchase, install, and operate the solar electric systems or contract with an affiliate to meet the solar portfolio requirement.

**R14-2-1616. Legal Issues**

- A. A working group to identify, analyze and provide recommendations to the Commission on legal issues relevant to this Article shall be established:
1. The working group shall commence activities within 15 days of the date of adoption of this Article.
  2. Members of the working group shall include representatives of staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches and the Attorney General shall be invited to send representatives to be members of the working group.
  3. The working group shall be coordinated by the Director of the Legal Division of the Commission or by his or her designee.
- B. The working group shall submit to the Commission a report on the activities and recommendations of the working group no later than 90 days prior to the date indicated in R14-2-1602.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

- C. The Commission shall consider the recommendations and decide what actions, if any, to take based on the recommendations.

**R14-2-1617. Affiliate Transactions**

- A. Separation. An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP). The books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in R14-2-1614. All proprietary information shall remain confidential.
1. An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions permitted under subsection (A)(2). An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with subsection (A)(7).
  2. An Affected Utility or Utility Distribution Company, its parent holding company, or a separate affiliate created solely for the purpose of corporate support functions, may share with its affiliates joint corporate oversight, governance, support systems and personnel. Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. An Affected Utility or Utility Distribution Company shall not use shared corporate support functions as a means to transfer confidential information, allow preferential treatment, or create significant opportunities for cross-subsidization of its affiliates, and shall provide mechanisms and safeguards against such activity in its compliance plan.
  3. An affiliate of an Affected Utility or Utility Distribution Company shall not trade, promote, or advertise its affiliation with the Affected Utility or Utility Distribution Company, nor use or make use of the Affected Utility's name or logo in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the Affected Utility or Utility Distribution Company name or logo appears, that:
    - a. The affiliate is not the same company as the Affected Utility or Utility Distribution Company, and
    - b. Customers do not have to buy the affiliate product in order to continue to receive quality regulated services from the Affected Utility or Utility Distribution Company.
  4. An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions.
  5. An Affected Utility or Utility Distribution Company shall not participate in joint advertising, marketing or sales with its affiliates. Any joint communication and correspondence with an existing customer by an Affected Utility or Utility Distribution Company and its

affiliate shall be limited to consolidated billing, when applicable, and in accordance with these rules.

6. Except as provided in subsection A(2), an Affected Utility or Utility Distribution Company and its affiliate shall not jointly employ the same employees. This rule applies to Board of Directors and corporate officers. However, any board member or corporate officer of a holding company may also serve in the same capacity with the Affected Utility or Utility Distribution Company, or its affiliate, but not both. Where the Affected Utility is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for its affiliates, the prohibition outlined in this section shall only apply to affiliates that operate within Arizona.
  7. Transfer of Goods and Services: To the extent that these rules do not prohibit transfer of goods and services between an Affected Utility or Utility Distribution Company and its affiliates, all such transfers shall be subject to the following price provisions:
    - a. Goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, the transfer price shall be the higher of fully allocated cost or the market price. Transfers from an affiliate to its affiliated Utility Distribution Company shall be priced at the lower of fully allocated cost or fair market value.
    - b. Goods and services produced, purchased or developed for sale on the open market by the Affected Utility or Utility Distribution Company will be provided to its affiliates and unaffiliated companies on a nondiscriminatory basis, except as otherwise permitted by these rules or applicable law.
  8. No Cross-subsidization: A competitive affiliate of an Affected Utility or Utility Distribution Company shall not be subsidized by any rate or charge for any noncompetitive service, and shall not be provided access to confidential utility information.
- B. Access to Information. As a general rule, an Affected Utility, Utility Distribution Company or Electric Service Provider shall provide customer information to its affiliates and nonaffiliates on a non-discriminatory basis, provided prior affirmative customer written consent is obtained. Any non-customer specific non-public information shall be made contemporaneously available by an Affected Utility, Utility Distribution Company or Electric Service Provider to its affiliates and all other service providers on the same terms and conditions.
- C. An Affected Utility or Utility Distribution Company shall adhere to the following guidelines:
1. Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's certificated area. The Commission shall maintain an updated list of such Electric Service Providers and make that list available to Affected Utilities or Utility Distribution Companies at no cost.



*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

2. An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier.
  3. Except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers.
  4. An Affected Utility or Utility Distribution Company shall maintain contemporaneous records documenting all tariffed and nontariffed transactions with its affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. These records shall be maintained for a period of 3 years, or longer if required by this Commission or another governmental agency.
- D. Nondiscrimination.** An Affected Utility, Utility Distribution Company, or their affiliates shall not represent that, as a result of the affiliation, customers of such affiliates will receive any treatment different from that provided to other, non-affiliated entities or their customers. An Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non-affiliated suppliers or their customers in the provision of services. For example:
1. Except when made generally available by an Affected Utility, Utility Distribution Company or their affiliates, through an open competitive bidding process, if the Affected Utility, Utility Distribution Company or their affiliates offers a discount or waives all or any part of any charge or fee to its affiliates, or offers a discount or waiver for a transaction in which their affiliates are involved, the entity shall contemporaneously make such discount or waiver available to all.
  2. If a tariff provision allows for discretion in its application, an Affected Utility or Utility Distribution Company shall apply that provision equally among its affiliates and all other market participants and their respective customers.
  3. Requests from affiliates and non-affiliated entities and their customers for services provided by the Affected Utility or Utility Distribution Company shall be processed on a nondiscriminatory basis.
  4. An Affected Utility or Utility Distribution Company shall not condition or otherwise tie the provision of any service provided, nor the availability of discounts of rates or other charges or fees, rebates or waivers of terms and conditions of any services, to the taking of any goods or services from its affiliates.
  5. In the course of business development and customer relations, except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall refrain from:
    - a. Providing leads to its affiliates;
    - b. Soliciting business on behalf of affiliates;
    - c. Acquiring information on behalf of, or provide information to, its affiliates;
    - d. Sharing market analysis reports or any non-publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its affiliates.
- E. Compliance Plans.** No later than December 31, 1998, each Affected Utility or Utility Distribution Company shall file a compliance plan demonstrating the procedures and mechanisms implemented to ensure that activity prohibited by these rules will not take place. The compliance plan shall be submitted to the Director, Utilities Division and shall be in effect until a determination is made regarding its compliance under these rules. The compliance plan shall thereafter be submitted annually to reflect any material changes. An Affected Utility or Utility Distribution Company shall have a performance audit prepared by an independent auditor in the 1st quarter after the end of each calendar year to examine compliance with the rules set forth herein, starting no later than the calendar year 1999, and every year thereafter until December 31, 2002. Such audits shall be filed with the Director, Utilities Division. After December 31, 2002 the Director, Utilities Division may request a Utility Distribution Company to conduct such an audit.
- F. Waivers**
1. Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies a waiver from all or part of the provisions of this rule.
  2. The Commission may grant such application upon a finding that a waiver is in the public interest.
- R14-2-1618. Disclosure of Information**
- A.** There are efforts under the auspices of the Western Conference of Public Service Commissioners to develop a tracking mechanism as to the source of electrons. To facilitate customer choice, the Commission intends to participate in developing this tracking mechanism and a side-by-side comparison for retail customers on price, price variability, fuel mix, and emissions of electricity offered for sale in Arizona and the West. Until this is accomplished, R14-2-1618 is a placeholder.
- B.** Each Load-Serving Entity shall prepare a consumer information label that sets forth the following information for customers with a demand of less than 1 MW:
1. Price to be charged for generation services.
  2. Price variability information.
  3. Customer service information.
  4. Composition of resource portfolio.
  5. Fuel mix characteristics of the resource portfolio.
  6. Emissions characteristics of the resource portfolio.
  7. Time period to which the reported information applies.
- C.** The Director, Utilities Division shall develop the format and reporting requirements for the consumer information label to ensure that the information required by subsection (A) is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division shall be used by each Load-Serving Entity.
- D.** Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials specifically targeted to Arizona. When a Load-Serving Entity advertises in non-print media, or in written materials not specifically targeted to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.
- E.** Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

- F. Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:
1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
  2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
  3. Due date of bills and consequences of late payment;
  4. Conditions under which a credit agency is contacted;
  5. Deposit requirements and interest on deposits;
  6. Limits on warranties and damages;
  7. All charges, fees, and penalties;
  8. Information on consumer rights pertaining to estimated bills, 3rd party billing, deferred payments, recision of supplier switches within 3 days of receipt of confirmation;
  9. A toll-free telephone number for service complaints;
  10. Low income rate eligibility;
  11. Provisions for default service;
  12. Applicable provisions of state utility laws; and
  13. Method whereby customers will be notified of changes to the terms of service.
- G. The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:
1. Prior to the initiation of service for any retail customer,
  2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
  3. To any person upon request,
  4. Made a part of the annual report required to be filed with the Commission pursuant to law,
  5. The information described in this subsection shall be posted on any electronic information medium of the Load-Serving Entities.
- H. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.
- I. The Commission may establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

**NOTICE OF EXEMPT RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 16. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER QUALITY ASSURANCE REVOLVING FUND PROGRAM**

**PREAMBLE**

- |   |   |
|---|---|
| <p>1. <u><b>Sections Affected</b></u></p> <p>Chapter 16<br/>Article 3<br/>R18-16-301<br/>R18-16-302</p> | <p><u><b>Rulemaking Action</b></u></p> <p>New Chapter<br/>New Article<br/>New Section<br/>New Section</p> |
|---|---|
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: Laws 1997, Chapter 287, Sections 56(B) and (C) (interim rulemaking authority)
- Implementing statutes: A.R.S. §§ 49-281 through 49-298 (public notice and participation statutes the rules are implementing)
3. **The effective date of the rules:**
- December 29, 1999
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**
- There are no previous notices addressing the exempt rule.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: George Tsiolis or Martha Seaman
- Address: Arizona Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona 85012-2809
- Telephone: (602) 207-2222
- Fax: (602) 207-2251
- TDD: (602) 207-4829
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
- This is an interim rulemaking pursuant to the Water Quality Assurance Revolving Fund ("WQARF") session law at Laws 1997, Chapter 287, §§ 56(B) and (C). The session law exempts this interim rulemaking from the rulemaking provisions at A.R.S. Title



**Arizona Administrative Register**  
**Notices of Exempt Rulemaking**

41, Chapter 6, Article 3, but requires the Department to propose the interim rules through a Notice of Exempt Rulemaking in the *Arizona Administrative Register*, provide 60 days for formal public comment, and finalize the interim rules. The session law also requires the attorney general to endorse her approval of the final interim rules and file the approved rulemaking with the Secretary of State according to A.R.S. Title 41, Chapter 6, Article 4.

The interim rules proposed in this Notice of Exempt Rulemaking would implement the WQARF community involvement requirements of A.R.S. Title 49, Chapter 2, Article 5. R18-16-301 would govern the form and frequency of public notification and opportunities for public comment regarding matters pertaining to WQARF sites including, but not limited to, the following: (1) site scores and the WQARF site registry; (2) the scope of remedial investigations and feasibility studies; (3) remedial action work plans; (4) records of decision and amendments of records of decision; (5) documents of no further action; (6) prospective purchaser agreements; (7) settlements, including qualified business and financial hardship settlements, and denials of qualified business and financial hardship settlements; (8) departmental allocations of liability made for the purposes of cost recovery settlements; and (9) administrative proceedings to allocate liability. R18-16-302 would govern the maintenance of public repositories of information about WQARF sites. Both R18-16-301 and R18-16-302 would supersede the WQARF public participation requirements at 18 A.A.C. 7 Article 1.

The 60-day period for public comment on this Notice of Exempt Rulemaking shall end within 60 calendar days after the publication of this notice in the *Arizona Administrative Register*. Persons wishing to comment on this Notice of Exempt Rulemaking may do so by submitting written comments to the persons identified in the answer to Question 5.

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**  
Not applicable. This is an exempt rulemaking pursuant to session law at Laws 1997, Chapter 287, Section 56(B).
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Not applicable. The Department will answer this question after the public has had an opportunity to comment on the interim rules proposed in this Notice of Exempt Rulemaking in accordance with Laws 1997, Chapter 287, Section 56(B).
10. **A summary of the principal comments and the agency response to them:**  
See question #9.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
12. **Incorporations by reference and their location in the rules:**  
Not applicable.
13. **Was this rule previously adopted as an emergency rule?**  
No.
14. **The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 16. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**WATER QUALITY ASSURANCE REVOLVING FUND PROGRAM**

**ARTICLE 3. COMMUNITY INVOLVEMENT**

Section

R18-16-301. Public Notification and Participation

R18-16-302. Information Repositories

**ARTICLE 3. COMMUNITY INVOLVEMENT**

**R18-16-301. Public Notification and Opportunities for Public Comment**

- A. Applicability.** This Section governs the forms and frequency of public notification and opportunities for public comment required under A.R.S. Title 49, Chapter 2, Article 5.
- B. Notification by Publication.** If notification by publication in a newspaper is required and neither A.R.S. Title 49, Chapter 2, Article 5 nor any community involvement plan specify the form or frequency of the notification, the Department shall provide notification as follows:

1. Publication of a notice required to be in a newspaper of general statewide circulation or general circulation in the county within which the site is located shall occur:
  - a. 1 day in a daily newspaper, or
  - b. 2 days in a newspaper other than a daily newspaper.
2. Publication of a notice not required to be in a newspaper shall occur:
  - a. 1 day in a daily newspaper.
  - b. 2 days in a newspaper other than a daily newspaper, or
  - c. By some other means reasonably calculated to provide timely and adequate notice.
- C. **Notification by Direct Mail or Other Personal Notification.** If notification by direct mail or other personal notification is required and neither A.R.S. Title 49, Chapter 2, Article 5 nor any community involvement plan specify the

*Arizona Administrative Register*  
**Notices of Exempt Rulemaking**

form of the mailing or other personal notification, the Department shall provide the personal notification by bulk or first-class mailing, unless the bulk or first-class mailing would cause unreasonable delay in receiving time-sensitive materials, in which case the Department shall provide the personal notification by some other means reasonably calculated to provide timely and adequate notice.

- D. Public Comment Period.** If an opportunity for public comment is required and neither A.R.S. Title 49, Chapter 2, Article 5 nor any community involvement plan specify the duration during which the public may comment, the Department shall provide at least 30 calendar days for public comment.
- E. Imminent and Substantial Danger.** The requirements of this Section shall not prevent or delay a timely remedial action that the Director has determined is necessary to address the release or threat of release of a hazardous substance that may present an imminent and substantial danger to public health, public welfare, or the environment.

**R18-16-302. Information Repositories**

- A. Applicability.** This Section governs the contents and locations of public information repositories required or authorized under A.R.S. Title 49, Chapter 2, Article 5.
- B. Contents.** Public information repositories shall contain available administrative records relating to the site, including
1. Site registry reports,
  2. Project fact sheets,
  3. Community involvement plans,
  4. Records of community advisory board activities, and
  5. Executive summaries of remedial action activities.
- C. Location.** Public information repositories shall be located in at least 1 of the following areas:
1. An office of the Department.
  2. A public or semi-public facility to which the public has reasonable access.
  3. A private facility to which the public has guaranteed access that is reasonable.